No. 12195

United States
Court of Appeals
For the Ninth Circuit.

IRVING F. WIXON, District Director, Immigration and Naturalization Service,

Appellant,

vs.

TADAYASU ABO, et al., etc.,

Appellees.

Transcript of Record

Appeal from the United States District Court,
Northern District of California,
Southern Division.

Phillips & Van Orden Co., 870 Brannan Street, San Francisco, Calif.

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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In the United States District Court for the Northern District of California

25296R

"TADAYASU ABO, et al., ..., adults, individually, and as constituting a class, and as representatives of a class,

and

GENSHYO AMBO, et al., ..., minors, individually, and as constituting a class, and as representives of a class, by Harry Uchida, as the next of friend and as guardian ad litem of them and each of them, Applicants and Petitioners."

vs.

IVAN WILLIAMS, as the Officer-in-Charge, United States Department of Justice, Immigration and Naturalization Service, Tule Lake Center, Newell, Modoc County, California,
Respondent.

PETITION FOR WRIT OF HABEAS CORPUS

To The Honorable, The United States District Court for the Northern District of California:

The application and petition of each of the applicants and petitioners above-named for a writ of habeas corpus respectfully shows:

I.

Each petitioner is authorized to being and maintain this proceeding in habeas corpus and this court is authorized and empowered to entertain original jurisdiction of this petition and proceeding under and by virtue of the provisions of the Habeas Corpus Acts, Title 28 USCA, sec. 451 et seq., and also by virtue of the provisions of Title 8 USCA, sec. 903.

II.

Each petitioner is a person having Japanese ancestry, and at all times herein mentioned has been domiciled in and a resident of the United States, a native-born American, a citizen and national of the United States and subject to the jurisdiction thereof, as provided by the 14th Amendment of the Constitution, the provisions of Title 8 U.S. Code, sec. 601(a), and as defined in Title 8 U.S. Code, sec. 501(a) and 501(b); none of the petitioners at any time whatever has been and none is an alien enemy and none at any time has been an alien; none at any time has been and none is a native, citizen, denizen or subject of Japan or of any hostile nation, government or country; none has at any time been and none is a danger to the public peace or safety and none has at any time been accorded a judicial hearing upon any charge or accusation that he or she was or is such a danger, and, on the contrary, the Department of Justice, in 1945, made a finding and declaration that each petitioner was not hostile to and was not a danger to the public peace or

safety; each petitioner at all times herein mentioned and ever since his or her said birth in this country has been and now is loyal and devoted to the United States; and, by virtue of the circumstances hereinafter set forth, each is a resident within the jurisdiction of this Court.

III.

The petitioners jointly and severally bring and maintain this proceeding under the procedure authorized in habeas corpus proceedings and the practice conforming to the practice in actions at law or suits in equity and pursuant to the provisions of Rules 20, 23(1), 23(2), 23(3), 18(a), 18(b), 19(a), 19(b), and 81(a)(2), of the Rules of Civil Procedure for the District Courts of the United States, uniting and joining in this single petition for the following reasons and purposes, among others, to-wit: (1) For the convenience and interest of the petitioners and respondents; (2) to promote the orderly, convenient and efficient administration of justice; (3) to avoid and prevent a multiplicity of suits; (4) because petitioners jointly and severally assert rights to release and discharge from the unlawful internment and detention in which they are held and because their rights thereto arise out of the same series of occurrences; (5) because there are several points of litigation and questions of law and of fact arising in said proceeding that are common to each and all of them; (6) because said proceeding is also a class action and the character

of the rights sought to be enforced for the persons and class of persons on whose behalf the same is brought and those who hereafter may be joined as petitioners herein is joint, common, and several; and (7) because there are common questions of fact and of law affecting the several rights involved and a common relief is sought by each petitioner against respondent;

The questions and issues of fact involved herein which are common to each and all of petitioners are: (1) Whether the petitioners are native-born American citizens and nationals of the United States or stateless persons or alien enemies, it being apparent that if petitioners are not alien enemies their internment was and is unlawful and they are entitled to immediate release therefrom, such internment and detention lawfully being applicable only to alien enemies during the actual period of time in which the United States is engaged in the prosecution of war and then only provided the internment and detention of specified alien enemies is commanded by the President of the United States and his authority so to do is invoked under and arises from the Alien Enemy Act; and (2) whether the renunciations of nationality signed by petitioners are void and invalid as having been signed under duress, menace, fraud and undue influence, as hereinafter alleged, and as having been rescinded, the political status of the petitioners depending upon a determination of the legality or illegality thereof;

Among the questions of law involved herein, which are common to each and all of the petitioners herein, are the following, to-wit: (1) The constitutionality and validity of Title 8, USCA, sec. 801(i), and the nationality regulations adopted pursuant thereto, on their face and as construed and applied to petitioners who contend the same are unconstitutional and void for being repugnant to the provisions of the 4th, 5th, 6th, 8th, 9th, 10th, 13th, and 14th Amendments of the Constitution and to the following provisions of the Constitution, viz., Article I, sec. 1; sec. 8, subd. 4; sec. 9, subd. 3; Article III, sec. 1; and sec. 3 subds. 1 and 2; and Article IV, sec. 2, subd. 1; and (2) whether the Alien Enemy Act, Title 50, USCA, secs. 21 and 22, which respondent asserts was invoked against petitioners and under which respondent asserts petitioners were and are interned as alien enemies, was lawfully invoked against them and was and is lawfully applied to them, and the constitutionality and validity of said Alien Enemy Act on its face and also as construed and applied to the petitioners who contend the said Act was unlawfully invoked against them and was and is unlawfully applied to them and also that it is unconstitutional and void on its face and as construed and applied to them for being repugnant to each of the aforementioned amendments and provisions of the Constitution.

IV.

Each petitioner, contrary to his or her will and desire, is unlawfully interned, detained for the purpose of an involuntary removal or deportation to Japan and restrained of his or her liberty by the Officer in Charge, United States Department of Justice, Immigration and Naturalization Service, at the Tule Lake Center, situated within the jurisdiction of this Court, at Newell, Modoc County, California, said Officer in Charge acting under the order or orders of the Attorney General of the United States and presently being one, Ivan Williams, respondent herein; and the said Attorney General and said Officer in Charge, acting under his order or orders, has announced and given notice of intention summarily to remove and deport each petitioner involuntarily to Japan;

The United States Department of Justice has publicly announced the early closing of the said Tule Lake Center where persons of Japanese descent and the petitioners, as such, heretofore have been and now are detained by the Government, and has ordered each petitioner and all other persons of like ancestry, there interned, who have signed applications for renunciation of United States nationality, upon a mere notice of approval thereof being given by an Assistant Attorney General of the Department of Justice, detained and restrained of his or her liberty for deportation purposes and has publicly announced that commencing on and after November 15, 1945, each petitioner and all

persons who have signed such renunciation applications will be forcibly removed and deported to Japan, and that petitioners and all such persons so scheduled for such removal and deportation to Japan will be so deported without any notice being given and without any hearings being accorded any of them thereon;

Said Officer in Charge at the Tule Lake Center, the respondent, Ivan Williams, acting under the orders of the Attorney General of the United States, under a claim of color of authority of the Alien Enemy Act, Title 50 USCA, sec. 21, asserts each of said petitioners is an alien enemy and that as such each has been and is interned and restrained of his or her liberty and is held and scheduled for such an involuntary removal or deportation thereunder to Japan, albeit that such assertion that petitioners are alien enemies or that any of them is an alien enemy is a false and fictitious assertion, claim, and assumption wholly unsupported by fact and by law and is a gross mistake and error of fact and of law.

V.

Each petitioner for a long period of time has been and now is interned and detained at said Tule Lake Center and now is under an order of removal or deportation to Japan, as each is informed and believes and therefore alleges, by reason of a claim that each, by a renunciation of United States nationality, thereby became an alien enemy and subject to such internment, detention and removal or

deportation under the provisions of the Alien Enemy Act, Title 50 USCA, sec. 21, the facts out of which such claim arises being as follows:

Each petitioner has had, in his or her ancestral line an unknown number of ancestors who, at some remote time in the past, were born in a geographical area over which a Japanese sovereign ruled and over whom such sovereign claimed, asserted and enforced, through the then instrumentalities of police power, a temporal jurisdiction. Solely because of said type of ancestry each petitioner, pursuant to proclamations, commands and orders of General John L. DeWitt, then Commander of the Western Defense Command and Fourth Army, during the year 1942, first was imprisoned in the immediate vicinity of his or her then home, situated within the geographical area embraced by the Western Defense Command, then driven into and imprisoned in stockades called assembly centers, thereafter transported to concentration camps called War Relocation Centers and there confined for approximately three years, and thereafter imprisoned in the Tule Lake Center, Newell, Modoc County, California, said imprisonment having been continuous from 1942, to date, all without a charge of crime or accusation of crime having been lodged against any of them, and without any hearing having been given them on the reasons for such treatment, and in spite of the fact that the Attorney General of the United States in 1945 caused each to be notified that he or

she had been found to be a person not dangerous to the security of the United States;

That during the entire period of his or her unlawful imprisonment, commencing in 1942, and continuing ever since, as aforesaid, each petitioner has been and still is deprived of substantially all his or her rights, liberties, privileges and immunities guaranteed by the Constitution to him or her as a native-born citizen and national of the United States and subject to the jurisdiction thereof, as also those guaranteed to him or her as a person thereunder, said deprivations having been committed by governmental authorities under a claim of color of authority of the United States;

During the preceding period of 1945, at said Tule Lake Center, each petitioner signed an application for renunciation of United States nationality, as provided for by Title 8 USCA, sec. 801(i), and the Rules and Regulations adopted by the Department of Justice under the Nationality Act of 1940, as amended, said Rules being more particularly designated as Sections 316.1 to 316.9, inclusive, of Chapter I, sub-chapter D, part D, of Nationality Regulations; that none of said applications has been approved by the Attorney General of the United States, nor has he ever issued an order approving any of them, as is required by Title 8, USCA, sec. 801(i) and Rule 316.7 of the Nationality Regulations, before such becomes effective; that each petitioner has received a letter from a representative of the Department of Justice stating that his or her

renunciation has been approved by the Attorney General as not contrary to the interests of the national defense, and informing each that he or she no longer is a citizen of the United States and is not entitled to any of the rights and privileges of such citizenship;

The signing of said application for renunciation was neither under oath nor real nor free nor voluntary on the part of any of said petitioners but was caused by and was the result of duress, menace, fraud, undue influence, mistakes of fact and of law and was the product of the fear, coercion and intimidation under which each then and there was held and subjected to and under which he or she labored, all as hereinafter set forth;

In signing said renunciation applications, none of the petitioners was informed, knew, intended or expected, by reason thereof to be interned, detained and restrained of his or her liberty as an "alien enemy" or otherwise, and none was informed, knew, intended, or expected that he or she would be involuntarily removed or deported to Japan by reason thereof, and, on the contrary, was led to believe by the Government, its agents, servants, and employees, that the signing thereof was not final, but tentative, and subject to being rescinded and revoked.

VI.

The internment and detention of each petitioner and the restraint upon the liberty of each, as aforesaid, and the threatened, imminent and impending involuntary removal and deportation of each to

Japan, as aforesaid, are, and each of said things, is, in violation of the Constitution and laws of the United States, as heretofore stated, and deprives each of the due process of law guaranteed by the 5th Amendment of the Constitution, in the following particulars, to-wit:

A: The unconstitutionality and illegality of the internment and detention of each petitioner and the restraint upon his or her liberty:

(1) That none of the applications for renunciation of nationality signed by petitioners has at any time whatsoever been approved by the Attorney General of the United States nor has an approval nor an order approving any of the said applications at any time been made by him nor has he at any time passed upon or considered any of them as required by the provisions of Title 8 USCA, sec. 801(i), and by the provisions of sec. 316.1 to 316.9, inclusive, of Part 316, sub-chapter D, Chapter I of Nationality Regulations, before a renunciation therein provided for becomes effective;

(2) That at the time each petitioner signed said renunciation application the United States was engaged in the prosecution of a war and, by reason thereof, any approval of a renunciation of nationality by any of the petitioners necessarily would have been contrary to the interests of national defense and to the sovereignty of the United States and violative of the provisions of Article III, section 3, subdiv. 1 of the Constitution;

(3) That the hearing accorded each petitioner upon his or her application for renunciation was nothing but a perfunctory pseudo-hearing or command appearance before a hearing-officer designated by the then Attorney General of the United States and was wanting in each and all of the elements of a fair and impartial hearing, and in the incidents thereof, in that each petitioner was deprived of the benefits of independent advice and counsel and of the assistance of counsel in and about said hearing, was denied the right to be confronted by any evidence and to examine witnesses against him or her or to produce witnesses in his or her behalf, albeit none of the petitioners waived his or her rights thereto; that at each such pseudo-hearing, the hearing officer's recommendation on each application was based, either in whole or in part, upon secret information and data available to and used by the hearing officer but which was withheld, concealed and kept secret from each petitioner, as provided by the provisions of Section 316.6 of the Nationality Regulations of the Department of Justice; and any approval thereof, had any approval or order approving any of said renunciations been issued or made by the Attorney General of the United States, necessarily would have been based wholly or partially thereon;

(4) The signing of the renunciation applications by each petitioner was neither under oath nor real nor free nor voluntary but was caused by and was

the result of duress, menace, fraud, undue influence, mistakes of fact and of law and was the product of the fear, coercion and intimidation under which each then and there was held and subjected to by the government and by groups and gangs, and by individuals, as hereinafter set forth:

(a) Commencing with their unwarranted and unjustified evacuation from their homes in 1942, as aforesaid, and continuously since then to date, the United States government, acting by and through its agents, servants and employees, and as the jailor, custodian and guardian of petitioners, its wards, has discriminated and still discriminates against the petitioners and each of them simply because of their descent from persons of Japanese origin and, ever since their unlawful imprisonment in the vicinity of their homes immediately preceding their said evacuation and continuously thereafter during their imprisonment in concentration camps and during their internment in the Tule Lake Center, has unlawfully confined them and members of their families and subjected them and members of their families there confined to governmental duress, menace, fraud and undue influence and harassment and held and still holds them in a continual mental state of fear and terror simply because of their Japanese ancestry; the United States government, pursuant to its said policy and program of discrimination and in furtherance thereof, steadily and systematically has subjected them to a course of abusive treatment during said

period of time; pursuant to said policy and program it has, by said continuous imprisonment without according them or any of them a hearing on the reasons therefor, regarded, classed and treated them as though they were alien enemies; all the males among them of draft age, including the many who have served faithfully in our armed forces and hold honorable discharges therefrom, the many others who were transferred to and now are in the enlisted reserve and subject to being called for active duty and the many who repeatedly have volunteered to enlist in the Army but were refused and denied the right to serve and to fight for and defend this country by prejudiced and hostile draft boards and by draft boards denying them such rights upon governmental orders and who are still denied this birthright, were classified "4-C" under the Selective Training and Service Act of 1940, that is, as "Alien Enemies," by draft boards acting upon governmental orders, without good cause and without justification and in violation of their rights as American citizens, simply because they were of Japanese descent; by reason whereof, petitioners and all of said persons of like descent likewise confined to said Center were led to believe and feared and had good cause to believe and fear that the Government of the United States viewed them as alien enemies and desired and intended to deprive them of the right to remain in and to fight for this country and to imprison them for an indefinite period of time and thereafter to remove and banish

them and their families and all like descended persons from the United States; that the government, after having encompassed their ruin by the aforesaid evacuation and their subsequent continuous confinement, led petitioners to believe that the alien Japanese members of their families were scheduled and held for removal and deportation to Japan and that the citizen members of said families would be detained in this country and thereby caused alien parents, who feared the splitting of their families, to coerce their citizen children into signing renunciation applications, and led petitioners to believe that the signing of said applications was a matter commanded by the government, compliance with which was a prerequisite to their right and that of their families to remain in the protective security of said Center and to prevent a disuniting of their families and to save themselves and their families from physical harm and violence were they to be released and sent back into civil life in communities where hostility to persons of Japanese ancestry reigned and where they feared they would suffer great physical harm and probable loss of life from lawless elements; and the government very recently has initiated the practice of permitting aliens to leave said Center and return to their former homes while it holds their children who have signed said renunciation applications for involuntary removal and deportation to Japan and now also compels those who have been released from confinement and those who were lucky enough to have escaped it al-

together, including those of our soldiers of Japanese ancestry returning from the battlefields of Europe and the Pacific who have parents, wives, sisters, brothers, or children interned in said Center and scheduled for deportation to Japan, to the choice of an involuntary banishment from the United States to accompany them to preserve family unity or to remain here separated from them; that the signing of said applications and the pseudo-hearing held thereon was a trap designed by the Government of the United States to cause and result in the involuntary deportation of each signer to Japan and of the involuntary removal of members of his or her family to Japan and thus to result in a mass banishment of persons of Japanese descent from the United States, which design and purpose, was at all times heretofore withheld, concealed and kept secret from the signers and petitioners; and, by reason of said governmental duress, menace, fraud, and undue influence, and the threats, coercion and intimidation practiced upon each petitioner and members of his or her family each petitioner was compelled by the government to sign a fictitious renunciation of a citizenship of which each already, in fact, had been deprived by the Government of the United States;

(b) That neither at the time each petitioner signed an application for renunciation at the pseudo-hearing held thereon at said Center nor at any time prior thereto during his or her unlawful confinement, was he or she a free agent in any sense

of the words but then and there was unlawfully confined and restrained of his or her liberty and was held in duress by the United States government, its agents, servants and employees, as the jailor, custodian and guardian of petitioners, its wards, and by it and its agents, servants, and employees, knowingly was permitted to be exposed and subjected to the duress, menace, fraud and undue influence practiced upon and against each petitioner by organized terroristic groups and gangs of persons, likewise there confined, who were fanatically pro-Japanese and committed to forsaking this country and who were engaged in and allowed to engage in a continuous campaign to engender, develop and promote loyalty to Japan among the internees;

The said groups and gangs there were engaged in and were permitted to engage in a generalized campaign of lawlessness prior to the time said renunciation hearings were held and at the time of said hearings had established and then and thereafter maintained a veritable rule and reign of terror over petitioners, their families and internees residing in said Center; they preached and practiced sedition; they endeavored, by all means at their command, to proselyte to the cause of the enemy the petitioners, their families and other loyal internees there residing; they actively engaged in the engendering, development and promotion of loyalty to the cause of Japan which they openly and notoriously espoused; they informed petitioners that

petitioners and their families were regarded by the United States government as alien enemies and that it had scheduled them and their families for deportation to Japan; they informed petitioners and internees at said Center that innumerable acts of physical violence had occurred to persons who had been relocated in civil life and that their lives would be in jeopardy, because of community hositility, if any succeeded in being returned to civil life in this country; they threatened the petitioners and internees that if any of them talked to, communicated with or associated with any of the Caucasians in and about said Center those so doing would be assaulted by goon-squads, gangsters and hoodlums sponsored and commanded by them; they sent in spurious letters to the Department of Justice requesting applications be forwarded to internees whose names they signed to such letters and then informed the receivers that the government demanded that each receiver sign it; they maintained and operated schools in said Center to coach the victims of their fraud, menace, deceit and undue influence into giving false and untrue answers to questions the hearing officers were to propound to them at the hearings on renunciation applications; they informed petitioners, as did governmental announcements publicly made just prior to the time said hearings were held in 1945, that the deportation of each petitioner and that of alien members of his or her family, on an exchange ship, was imminent and impending, and said groups and gangs informed

and threatened each petitioner that he or she would be deported in any event and that if he or she failed to sign an application for renunciation the security of each and that of their families upon arrival in Japan would be endangered because the pro-Japanese leaders of said nationalistic pressure groups and gangs would report them to the Japanese government as being dangerous alien enemies to Japan and as American spies and that they would there be seized and punished as such; they maintained an *a*laborate system of black-listing and espionage over the internees in said Center as part of their plan of systematic tyranny and terror to which they subjected petitioners and the other internees in said Center; that said groups and gangs threatened, coerced and intimidated petitioners into signing said renunciation application by means of threats, displays, shows, exhibitions and demonstrations of force and violence and by threats against their lives and by threats of inflicting great physical injury upon them and upon members of their families in the event he or she failed to obey their mandates and to sign such renunciation applications and thereby compelled each of them to sign such renunciation application; that each petitioner believed in and feared and had good cause and reason to fear that said threats would be carried into execution and that he or she and his or her family would be exposed to physical violence and probable loss of life if he or she failed to heed said threats and failed to obey the mandates of said pressure groups

and gangs and thereby was compelled to sign such renunciation application; that by reason of said rule of terror prevailing over said Center which, together with the failure of the government to take steps to prevent, halt and put a stop thereto and to accord them protection against the same, and by reason of the duress practiced by the government against them, as aforesaid, the petitioners and other internees in said Center were kept in a constant state of fear, fright, mass hysteria and terror and, by reason thereof, and because of the absence of protection against the terroristic activities of said groups and gangs being afforded by the government which was their due many loyal and innocent internees were driven into becoming nominal but inactive members of such groups simply to save themselves and their families from danger, physical violence and probable loss of life from such sources, and petitioners were compelled involuntarily to sign said renunciation applications by reason thereof;

That at all times during said rule and reign of terror imposed upon the internees in said Center the United States government, and its agents, servants and employees, were aware of and knew of the purposes and activities of said groups and gangs and of the duress, menace, fraud and undue influence said groups and gangs practiced upon and against petitioners, members of their families and other internees in said Center, but condoned the same and was responsible for, and actually aided and abetted the same by permitting such activities

and by failing to prevent and to stop the same and by failing to arrest and prosecute the leaders and active members thereof and to put a stop to their criminal activities and lawlessness and by failing to invoke the federal sedition and espionage laws or other criminal laws against them and by failing to segregate such criminal elements from the petitioners and other loyal internees and to isolate them;

By reason of the duress, menace, fraud and undue influence practiced and exerted upon and against each petitioner by the government and by the groups and gangs, as aforesaid, and the failure of the government to accord them the protection against the aforesaid lawless acts of said groups and gangs, the petitioners were caught in the grip of terror which ruled throughout said Center and the wave of terror that engulfed them when they and members of their families were confronted with a possible return to face hostility in the communities from which they had been excluded and driven by the 1942 imprisonment program which was termed an evacuation and was initiated by civilian exclusion orders issued by General John L. DeWitt, as aforesaid;

That none of said renunciations were real, free or voluntary on the part of any of petitioners, but each was the product of fear, torment and terror induced in each petitioner's mind by virtue of the duress, menace, fraud and undue influence to which each was subjected by the government and by the groups, gangs, and individuals, as aforesaid, all of

which operated to deprive and did deprive each petitioner of freedom of choice, will and desire in and about the signing of such applications for renunciation and each of said renunciations was and is false, fictitious, null and void by reason thereof;

(5) That if it should be adjudged by the Court that any of the petitioners has lost his or her nationality by reason of signing such renunciation application, coupled with a valid order having issued thereon by the Attorney General of the United States approving the renunciation as not contrary to the interests of national defense, none of the petitioners thereby became an alien enemy within the meaning and intent of the provisions of the Alien Enemy Act, 50 U.S. Code, sec. 21, et seq., but became a mere inhabitant of this country and a stateless persons entitled to remain here as an inhabitant and resident of this country and to be free from internment, detention and restraint under said Act;

(6) The provisions of the Alien Enemy Act and of Title 8 U.S. Code, sec. 801(i), are not now in effect as to any of the petitioners or at all, inasmuch as the United States is not now engaged in the prosecution of a war within the meaning, intent and purview of said provisions.

(7) The provisions of Title 8 USCA, sec. 801(i), are unconstitutional and void for uncertainty and also for containing an improper delegation of legislative and judicial powers to the Attorney General of the United States, in violation of the provisions

of Art. I, sec. 1, and Art. III, sec. 1, of the Constitution.

B: The Unconstitutionality and Illegality of the Removal and Deportation of Each of Petitioners:

(1) None of the petitioners is an alien enemy within the intent, meaning and purview of the provisions of Title 50, USCA, sec. 21, as aforesaid;

(2) No warrant for the deportation of any of the petitioners has at any time issued from the President of the United States or from any court, judge or justice, as is a prerequisite to involuntary removal or deportation under Title 50, USCA, sec. 24;

(3) No complaint at any time whatever has been filed against any of the petitioners, as required by Title 50, USCA, sec. 23, nor has any of the petitioners ever had a judicial hearing on such removal or deportation, in any court of competent jurisdiction, nor has any such court at any time issued any order of removal or deportation against any of the petitioners, all of which are jurisdictional prerequisites to removal or deportation in involuntary removal or deportation proceedings under the said Alien Enemy Act;

(4) That none of the petitioners has been allowed a reasonable period of time consistent with the public safety and according to the dictates of humanity and national hospitality within which to recover, dispose of and remove his or her goods and

effects and prepare for his or her departure, all as required by Title 50 USCA, sec. 22, in involuntary removal or deportation proceedings under the said Alien Enemy Act;

(5) None of the petitioners has been accorded and none will be accorded any hearing with respect to his or her said involuntary removal and deportation to Japan but summarily will be removed and deported, as aforesaid, and in such summary removal and deportation en masse without any hearing having been given or intended to be given to petitioners and each of them thereon prior thereto the respondent and the United States Department of Justice have grossly discriminated against and do still continue to discriminate against them and each of them in that respondent and said Department of Justice heretofore have followed the practice and policy and now do follow the practice and policy of granting individual prior hearings in similar removal and deportation proceedings to all persons of German and Italian nationality whom the respondent and said Department of Justice have sought to remove and deport and are seeking to remove and deport under the provisions of the Alien Enemy Act; and said discriminatory treatment meted to petitioners and each of them denies them and each of them the equal protection of the laws and deprives them and each of them of the due process of law guaranteed them and each of them by the 5th Amendment of the Constitution;

(6) That neither a declared nor an undeclared war now exists between the United States and any foreign nation or government; that no invasion or predatory incursion is being perpetrated, attempted or threatened against the territory of the United States by any foreign nation or government; that the United States is now at peace with the world;

(7) Many of the petitioners were minors at the time they signed the renunciations applications and many still are minors and their said renunciations have been rescinded and revoked, as hereinafter mentioned, and, consequently, the internment, detention and restraint of each of them and the threatened and intended removal and deportation of each is unconstitutional, invalid and void for each of said reasons.

That the written orders, records and documents relating or pertaining to any and all of the petitioners in connection with the matters and things set forth in this petition are in the exclusive possession, custody and control of the respondent and the United States Department of Justice; and neither the petitioners nor any of them know the nature or contents thereof and none of them now has or at any time has had access thereto and the same never have been made available to petitioners or any of them or to their counsel and the same are now withheld from them and each of them and their counsel by the respondent and said Department of Justice.

VII.

Prior to the time of the filing of this petition each petitioner, twice in writing, notified the Attorney General of the United States, his agents and representatives, and the respondent as one of his agents, of the circumstances under which he or she signed such renunciation application, and that he or she withdrew, retracted, rescinded, revoked, cancelled and annulled his or her said application for renunciation of United States nationality for the reasons that the same was signed under duress, menace, fraud, undue influence and mistakes of fact and of law, as aforesaid, and informed him and them of the grounds and reasons on which said rescission and revocation was based and made but said Attorney General failed and still does fail to accept said rescission and revocation; that in each of said written notifications sent to the Attorney General of the United States each of said petitioners demanded of him and of respondent, Ivan Williams, as the aforesaid Officer in Charge at said Tule Lake Center, that he or she be released and discharged from said internment, detention and unlawful restraint upon his or her liberty, asserting therein the various grounds and reasons therefor, both factual and legal, but the Attorney General of the United States, his agents and representatives, and Ivan Williams, as the Officer in Charge of said Tule Lake Center, as aforesaid, acting under his

orders, failed and refused and do still fail and refuse to release and discharge each and all of said petitioners from said internment, detention and restraint and threatened removal or deportation to Japan; that a copy of the last written demand so made by each petitioner on November 1, 1945, by registered air-mail letter, is annexed hereto, incorporated herein, made a part hereof, and is marked Exhibit "1";

None of the petitioners is held by virtue of any complaint, indictment, presentment, warrant, or quarantine law, rule, regulation, arrest or order, except as hereinabove specifically set forth;

That no prior application for a writ of habeas corpus in regard to the internment, detention or restraint complained of in this petition has been made by petitioners or by any of them, in this or any other court.

Wherefore, each petitioner prays that a Writ of Habeas Corpus be granted and issued herein directed to the said Ivan Williams as the Officer in Charge, United States Department of Justice, Immigration and Naturalization Service, at the Tule Lake Center, Newell, Modoc County, California, commanding him to have the body of each petitioner before the above-entitled Court at a time to be specified therein, to do and receive what then and there shall be commanded by the Court concerning each petitioner, together with the time and cause of the detention of each, and said writ; that each petitioner be restored to his or her liberty; that the

Court find and adjudge that his or her application for renunciation of United States nationality was and is null, void and of no effect, and that any approval thereof made by the Attorney General of the United States or order issued by him approving the same, if any ever was made, was and is null, void and of no effect; that the Court find and adjudge that each petitioner is not an alien enemy and that each is a national and citizen of the United States; that the Court find and adjudge that his or her internment, detention and restraint was and is void and illegal; that any and all orders for his or her involuntary removal or deportation to Japan or to any foreign country or elsewhere be vacated and canceled; that each have his or her costs of suit; and each petitioner prays for such other and further relief as may be just.

Dated: November 5, 1945.

/s/ WAYNE M. COLLINS,
Attorney for Petitioners.

United States of America,
State of California, County of Modoc—ss.

Harry Uchida being first duly sworn, deposes and says: That he is one of the petitioners in the foregoing application and petition for writ of habeas corpus named; that he is confined and detained at the Tule Lake Center, Newell, Modoc County, California, as alleged therein; that he makes this affidavit and verification of said appli-

cation and petition on his own behalf as such an applicant and petitioner and on behalf of each and all the applicants and petitioners in said application and petition, each of whom likewise is confined and detained at said Tule Lake Center by the respondent, as alleged therein, and each of whom has authorized him so to do, and, because it is impracticable to have the same verified by each of them by reason of the aforesaid confinement and detention of each, their large number and the long period of time which would be required and be consumed to have such done and because of the shortness of time due to the threatened and imminent involuntary removal and deportation of each and all of said petitioners, as alleged therein; that he personally knows the facts set forth in said application and petition which apply equally to each and all of said petitioners; that he has read the foregoing applications and petition and knows the contents thereof; that the same is true of his own knowledge except as to the matters therein stated upon information or belief and as to such that he believes it to be true.

/s/ HARRY UCHIDA.

Subscribed and Sworn to before me this 7th day of November, 1945.

[Seal] /s/ JOE J. THOMAS,
Notary Public in and for the County of Modoc, State of California.

My Commission Expires Sept. 20, 1949.

EXHIBIT 1

San Francisco, California.
November 1, 1945.

Honorable Tom Clark,
Attorney General of the U. S.,
Department of Justice Building,
Washington, D. C.

Dear Sir:

Each of the persons whose name appears on the attached list, hereinafter referred to as the renunciant for the sake of clarity, at all times herein mentioned has been and now is interned in the Tule Lake Center situated in the vicinity of Newell, Modoc County, California. Ostensibly each of said persons there is confined as an asserted renunciant of United States nationality. Under a claim of color of authority under the Alien Enemy Act, 50 U.S. Code, sec. 21 et seq., each of them is classed, treated and detained as an alien enemy in said prison, concentration or internment camp by you or under your authority. The reason for this continued and oppressive imprisonment of said persons appears to be that at a perfunctory appearance before a government official, representative or hearing officer, presumably designated as such by the then Attorney General of the United States, each of the said persons, in the early part of 1945, signed an application for renunciation of United States nationality on a form prescribed and supplied by the Department of Justice.

Exhibit 1—(Continued)

The signing of said renunciation forms was not under oath. It was neither real, free nor voluntary on the part of any of the said persons but was obtained through duress, menace, fraud, undue influence and mistake of fact and of law, and through the means of each of said things, all as you heretofore have been informed by each of said person's recent letter to you revoking such renunciation.

Each of the said persons has received a letter from a representative of your Department which contains a notice stating, in substance, that said renunciation has been approved by the Attorney General as not contrary to the interests of national defense and that the signer of said renunciation form no longer is a citizen of the United States and is not entitled to any of the rights and privileges of such citizenship. Each of such letters, however, fails to specify the date when, if ever, the Attorney General himself approved the renunciation and also fails to state that an order, at any specified time or ever, actually was issued by him approving the renunciation as not contrary to the interest of national defense. It is significant that an approval of a renunciation is a finding that a renunciant is not a danger to our security. It is strange that many of such applications were revoked by the signers prior to the time any attempted approval thereof was made and that the revoking letters were ignored by your Department.

Exhibit 1—(Continued)

The theory offered in justification of such internment, if I am correctly informed, is that an approved renunciation, provided it was executed and approved during time of war and possessed the attributes of constitutionality and legality, automatically converted the renunciant into an alien enemy and thereupon condemned him to internment as an alien enemy under the provisions of the Alien Enemy Act. The theory is novel and unprecedented to say the least. The most that can be said of such a renunciation is that a shedding of U. S. citizenship does not clothe the renunciant with foreign citizenship but leaves him stateless. Such a person, nevertheless, is an inhabitant of this country and is entitled to the protection of constitutional safeguards. There is neither constitutional nor statutory authority or precedent justifying the internment of such a person as an alien enemy under the provisions of the Alien Enemy Act.

None of the persons whose name appears on the attached list is an alien enemy and none at any time has been an alien enemy or an alien or a national or a citizen or a subject of any foreign, sovereign, government, power or nation. Each of said persons was born in the United States and ever since continuously has been and now is subject to the jurisdiction thereof and is a national of and a citizen of the United States, as provided by the 14th Amendment of the Constitution, and as such is entitled to all the rights, liberties, privileges and immunities

Exhibit 1—(Continued)

of national citizenship and to those rights secured to persons by the 5th Amendment of the Constitution.

As the attorney duly authorized to represent and representing each of said persons whose name appears on the attached and annexed list which is incorporated herein, and for and on behalf of each of them, I hereby withdraw, retract, rescind, revoke, cancel and annul each of said renunciations and renunciation forms executed by each of them upon the following grounds and for the following reasons, among other grounds and reasons, to-wit:

1. That the said renunciation was invalid and void in its inception and also in its execution and has never become and cannot become effective;

2. That neither an approval nor an order approving the said renunciation has been made or issued by the Attorney General of the United States and none possessing validity can be made;

3. That neither an approval nor an order approving the said renunciation can be made by a subordinate executive officer in the absence of a specific statutory authority having been lodged by Congress in the Attorney General of the United States to delegate such a discretionary authority to be exercised by any person;

4. That the provisions of 8 USCA, sec. 801(i), and regulations issued pursuant thereto, on their

Exhibit 1—(Continued)

face and also as construed and applied to each of said persons, are unconstitutional and void for being repugnant to the 5th, 6th, 9th, 10th and 14th Amendments and in contravention of the privileges and immunities secured to each of them by the provisions of Article IV, sec. 2, of the Constitution;

5. That the application of the provisions of 8 USCA, sec. 801(i), and regulations issued pursuant thereto, to each of said persons is in excess of congressional authority lodged in Congress by Article I of the Constitution and is void as being extra-constitutional;

6. That an approval of said renunciation form, if given, and the giving of notice thereof, were, and each of said things was, in fact and in law, contrary to the interests of national defense and also contrary to the sovereignty of the United States, and for each of said reasons is invalid and void;

7. At the time said renunciation form was signed and ever since then the renunciant, together with a member or members of his or her immediate family, was and still is held in duress, then and there being unlawfully imprisoned in the said Tule Lake Center, under a claim of color of official governmental authority, and being deprived of practically all his or her constitutional rights, liberties, privileges and immunities guaranteed to him or her as a citizen and national of the United States by birth and by choice and of practically all his or her rights as a

Exhibit 1—(Continued)

person secured by the Constitution. While thus imprisoned and held in duress renunciant was made the unwilling victim of fraud, menace and undue influence and was mistreated, discriminated against, harassed and oppressed solely by reason of the irrelevance of the nationality of his or her ancestors and their historical and geographical origin;

8. At the farcical hearing on said renunciation which, held under the aforesaid circumstances, was nothing but a perfunctory appearance, the hearing officer's recommendation thereon was based, either in whole or in part, upon secret information and data available to and used by the hearing officer but which was withheld and kept secret from renunciant, and the approval thereof and order approving said renunciation, if any ever was made, was wholly or partially based thereon and, therefore, is invalid and void as a deprivation of a fair and impartial hearing, in violation of the provisions of the 6th Amendment, and as a denial of due process of law, in violation of the provisions of the 5th Amendment;

9. That the United States government, acting by and through its officials, agents, servants and employees, as the guardian and custodian of the person of renunciant and of the persons of members of his or her immediate family, its wards, knowingly and deliberately took a gross advantage of renunciant who then and there was held in duress

Exhibit 1—(Continued)

and in a constant state of terror and subjected to menace, fraud and undue influence and deliberately deprived renunciant of the benefit of independent advice and counsel in and about the hearing on said renunciation and the execution of said renunciation form and failed to inform renunciant that a renunciation would result in his or her deportation to Japan. The authorities confining renunciant to said prison also recently commanded renunciant to register as an alien, under pain of punishment provided for violation of the Alien Registration Act of 1940 for refusal so to do, and also demanded of many renunciants a false declaration, in a non-repatriation application, to the effect that renunciant was a person of Japanese nationality or a dual citizen despite the fact said authorities then knew, as a matter of fact and of law, that renunciant was of United States nationality and not a dual citizen, and also refused to accept written protests against such registration and declarations;

10. The time, place and circumstances under which said renunciation form was signed by renunciant did not constitute a fair and impartial hearing or trial and, in fact and in law, constituted a denial of renunciant's constitutional guaranty of due process of law and of the equal protection of the laws, in violation of the provisions of the 6th and 5th Amendments of the Constitution and, in addition thereto, constituted an unconstitutional deprivation thereunder of all of those inalienable

Exhibit 1—(Continued)

rights of national citizenship and of persons flowing from the facts of birth and residence in this country and which inhere in and attach to renunciant;

11. That at the time said renunciation form was signed the renunciant was not a free agent in any sense of the words but, together with members of his or her immediate family, then and there was and for a long period of time prior thereto had been and still is unlawfully confined to a concentration camp and restrained of his or her liberty, under a claim of color of authority of the United States, albeit in the absence of crime upon his or her part and without a charge or accusation of crime having been lodged against him or her. Said renunciation was exacted from renunciant while he or she was held in duress by the government acting through its officials, agents, servants and employees and while renunciant was, by them, knowingly permitted to be subjected to the menace, fraud, undue influence and duress exerted and practiced upon him or her by the government and its agents and especially by organized terroristic groups and gangs of persons, and other individuals, who were confined to said Center, which groups had established and maintained a veritable reign of terror over the internees;

12. That said renunciation was neither free nor voluntary on the part of renunciant but was the

Exhibit 1—(Continued)

product of fear, torment and terror induced in renunciant's mind by virtue of the governmental duress in which renunciant then and there was held which operated to deprive renunciant of freedom of choice, will and desire in and about the execution of the same; and at the time renunciation hearings were being held in said Center the government and its agents led the internees to believe and since then has led them to believe, by word and conduct, that renunciations were not final but were subject to being withdrawn and cancelled, in like manner as requests for repatriation were subject to withdrawal and cancellation, and thereby lulled them into a false sense of security and also led them to believe that renunciations would not result in a renunciant's involuntary deportation to Japan and thereby also lulled them into a false sense of security;

13. That said renunciation was neither free nor voluntary on the part of renunciant but was the product of fear, torment and terror induced in renunciant's mind by virtue of the duress in which he or she then was held and by virtue of the duress, menace, fraud and undue influence practiced upon and exercised against renunciant and members of renunciant's immediate family by terroristic groups and gangs of disloyal, subversive and fanatical persons there actively engaged in developing and promoting loyalty to Japan, and by other individuals, likewise confined to said Center, who intimidated,

Exhibit 1—(Continued)

coerced and compelled renunciant to execute said renunciation form by threats, exhibitions and examples of physical violence against the person of renunciant and members of renunciant's family, all of which operated to deprive renunciant of freedom of choice, will and desire in and about the execution of the same. The truth of this is acknowledged in the letter of the Department of Justice dated January 18, 1945, addressed to the respective chairman of the Sokuji Kikoku Hoshi Dan and the Hokuku Seinen Dan at the Tule Lake Center, copies of which, at the instance of your Department, were posted promiscuously in the said Center;

14. Renunciant signed said renunciation form as a result of the duress, menace, fraud and undue influence to which he or she and renunciant's family confined to said Center constantly were subjected by the government, and its agents, as renunciant's jailor and custodian, and by the aforesaid terroristic groups, gangs and individuals to whose studied and continuous campaign of terrorism and criminal oppression renunciant there helplessly was exposed and such renunciation was and is false, fictitious and void for each of said reasons;

15. That said renunciation was neither free or voluntary; the renunciant was compelled, intimidated and coerced into signing said renunciation

Exhibit 1—(Continued)

form by reason of threats of unlawful and violent injury to the person, property and character of renunciant and to members of renunciant's family, made by disloyal, subversive and dangerous pressure groups, gangs and individuals harbored and detained in said Center. These were freely allowed and permitted by the government, as the jailor and custodian of renunciant, to menace, intimidate, coerce and terrorize renunciant and many other loyal American citizens there confined, by oral means, by displays, shows, parades, demonstrations and exhibitions of force and violence, and by threats of inflicting great physical injury and loss of life upon renunciant and other loyal American citizens there confined, thereby compelling them involuntarily to execute such renunciations. The renunciant was in constant fear, as was his or her immediate family and other loyal internees, and believed and feared, as did members of his or her family, that said threats would be carried into execution if said renunciation was not signed. The renunciant was acting under the duress, menace, fraud and undue influence of said groups and gangs, and of other individuals confined to said Center, and by virtue thereof, signed said renunciation form under compulsion and in fear of said threats. The government failed to accord renunciant and said persons the protection against said lawlessness and terrorism although protection against the same was their due. It failed to halt or put a stop thereto

Exhibit 1—(Continued)

and thereby contributed to the mass hysteria and terroristic state in which they were held. Of all these facts your predecessor in office, the agents of your Department and the authorities in charge of said Center then were aware;

16. That at the time said renunciation application was signed renunciant had been informed and led to believe and believed, by virtue of said imprisonment, duress and the undue influence under which he or she was laboring, that it was a matter commanded by the government, compliance with which was a prerequisite to the right to remain in the protective security of said Center, as also to prevent a disuniting of renunciant's family. In addition, you are aware of the great number of overt and covert acts committed, the misrepresentations made by and the undue influence exercised over renunciant and other internees by the said terroristic pressure groups and gangs of disloyal, subversive and criminally inclined persons, likewise there confined, who compelled the applications to be signed. For a long time prior to the signing of said application, at said time and since such groups and gangs knowingly and recklessly were permitted by the government and its agents to engage in and carry on their continuous campaign of lawlessness and terror against renunciant and other loyal internees there confined and to establish and maintain a rule of terror over them. These groups and gangs were openly permitted and allowed to preach

Exhibit 1—(Continued)

and practice sedition, to terrorize the internees and to endeavor to proselyte to the cause of the enemy those loyal American citizens and aliens friendly to the United States there interned. They were permitted to and did menace, intimidate and coerce thousands of loyal and law abiding internees, by means of threats and resorts to demonstrations, exhibitions and examples of individual assaults and batteries and mob violence, into compelling renunciant and thousands of others to execute said renunciation form.

The government neither prevented nor stopped the said reign of terror. It afforded the internees neither help nor protection against it. It failed to prosecute the active leaders and members of said groups and gangs for the commission of such criminal acts. By reason of said rule of terror, which kept the internees in a constant state of mass hysteria, and in the absence of protection against the same being afforded by the government, many loyal and innocent but helpless internees were driven to become nominal but inactive members of such groups simply to save themselves and their families from danger, physical violence and probable loss of life from said sources;

17. Each of said persons was informed, by public announcements made by governmental authorities just prior to the time said renunciations were signed, and concurrently therewith, that his or her deportation to Japan, along with alien members of

Exhibit 1—(Continued)

his or her family, on an exchange ship, was imminent and impending and each and all of them, by said pressure groups and gangs active in said Center and members thereof, were threatened that if he or she failed to sign an application for renunciation the security of each and that of their families upon arrival in Japan would be endangered because the pro-Japanese leaders of said nationalistic pressure groups and gangs would report them to the Japanese government as being dangerous alien enemies to Japan and as American spies, in which said announcements and representations he or she and his or her family and other internees detained in said Center believed and feared would be the treatment accorded them all. Said groups and gangs maintained an elaborate system of black-listing and espionage over the internees in said Center as part of the program of systematic tyranny to which they subjected the internees;

18. At the time said renunciation was signed and for weeks prior thereto active leaders and members of said pressure groups threatened said persons and each of them that if any of them talked to, associated with or communicated with any of the Caucasians within or without said Center to whose charge they were committed or with any Caucasians there employed that such persons so doing would be assaulted by terroristic gangs sponsored by said pressure groups. Each of said persons believed in and feared and had good cause and reason to be-

Exhibit 1—(Continued)

lieve in and fear, that said threats against him or her would be carried into execution and that he or she and their families would be exposed to physical violence and probable loss of life if he or she failed to heed said threats and refused to obey the mandates of said pressure groups.

It may interest you to learn, although I presume you long ago must have been informed, that such pressure groups and gangs maintained, operated and conducted special coaching schools in the Center for the express purpose of coaching the helpless victims of their fraud, menace, deceit and undue influence upon the questions the hearing officers were to propound to them and the answers they were to give thereto at the scheduled hearings on the renunciation applications. You have been informed, I presume, that at least one loyal internee was murdered in said Center and that it does not seem ever to have been doubted by the internees and their custodians that the murderer was an active member of one of the terroristic groups operating therein and carrying out its mandate. You are aware that the government and its agents made little, if any, effort to suppress and none to isolate the active criminal members of such groups. You know that none of the leaders or active members of said groups and gangs were prosecuted criminally for their lawless acts. Had the federal sedition and espionage or other criminal laws been invoked against them their lawlessness would have been checked;

Exhibit 1—(Continued)

19. In the event of a refusal to execute such a renunciation form the renunciant, together with renunciant's immediate family, was informed, believed and feared, by reason of said duress, intimidation and coercion, and by reason of representations made by said disloyal groups, gangs, and by other individuals confined to said Center, that renunciant and members of renunciant's family would be expelled and removed from the comparative security of his or her then prison and the custody of his or her then jailors and custodians and would be driven back, friendless, propertyless and protectionless, into civil life in a community highly prejudiced against and hostile to renunciant and renunciant's family because of their descent from persons of Japanese ancestry and there would be exposed to and suffer great bodily harm, injury and probable loss of life by virtue of existing mob violence and the criminal intentions of lawless individuals who regard all persons of Japanese descent as enemies upon whom they might with impunity inflict injury.

For the said reasons renunciant was led to believe and believed that if renunciant signed said renunciation form the renunciant, together with his or her family, would be permitted, allowed and entitled to remain in the relative security afforded by said Center, renunciant's jailors and custodians until such time as the war had terminated, peace had been restored and such community prejudice,

Exhibit 1—(Continued)

hostility and violence subsided and ceased. In the face of said threats and while held in duress and also acting upon said representations so made, the renunciant, under the circumstances aforesaid, believed and feared and had good cause to believe and to fear that if he or she failed to execute the renunciation form renunciant and renunciant's family would be driven from said Center and would be exposed to and would suffer great harm and physical violence from said lawless sources. These are facts and matters of common knowledge of which the renunciant's jailors, custodians, the then Attorney General and the Department of Justice and its agents well were aware.

The failure of the government and its authorities and agents to segregate and isolate and prosecute the rabid and dangerous leaders and active members of said groups and gangs who were fanatically loyal to Japan and serving the cause of our enemy and who then desired and still desire to be repatriated to Japan and who should be sent there, and through such a procedure effectively to prevent them from innoculating interned loyal American citizens and friendly aliens with the virus of disloyalty, despite the repeated pleas made for such relief and protection, is, in itself, ample proof of the abusive treatment suffered by renunciant and thousands of other internees loyal to the United States and of the duress in which renunciant and they unlawfully were held;

Exhibit 1—(Continued)

20. Nearly all the confined male citizens of draft age in said Center, including those who had served faithfully in our armed forces and held honorable discharges therefrom, and there were hundreds of these, and many others who were transferred, by the military authorities, from active duty to the enlisted reserves and who, with such status, are still subject to being called for active duty, were classified as "4-C" by draft boards acting upon instructions of the government. They were thus detained, treated and falsely classified as "alien enemies," that is to say, "4-C," without good cause, without justification and in violation of their rights as American citizens. By reason thereof, they were led to believe that the government of the United States regarded them not as citizens but as alien enemies. Said conduct upon the part of the government compelled them formally to make a fictitious renunciation of a citizenship of which each already, in fact, had been deprived by the government. Many of the renunciants who are confined to said Center repeatedly have tried to enlist in our armed forces but were denied the right to fight for and defend our country by prejudiced and hostile draft boards and by governmental authority and still are denied this birthright;

21. In approving renunciations, if any were approved, a gross discrimination against the family unity of the confined persons was practiced, the governmental objective being the deportation of

Exhibit 1—(Continued)

all renunciants. In accepting the renunciation of one member of a family and refusing another the government divides and disunites the families. The purpose of this was and is to cause a mass exodus of persons of Japanese ancestry from this country. It effectuates this purpose by compelling citizens who have not renounced to the hard choice of either remaining in this country separated from their wives, husbands, brothers, sisters, parents and children or being compelled to be the victims of a forced banishment necessitated to preserve family unity. Hundreds of our heroic soldiers of Japanese ancestry are returning from the battlefields of Europe and the Pacific to find their families divided, members thereof interned in the Center and themselves faced with such a distressing and terrible choice;

22. By reason of the 1942 evacuation from the western states and the subsequent prolonged detention of renunciant and persons of like ancestry in concentration camps the renunciant was driven into becoming a refugee from unjust racial discrimination, prejudice and hate. As a consequence of the mistreatment by the government and a hostile segment of the public, both regarding and treating renunciant and persons of like ancestry as being persons of an inferior and degraded race unworthy of social acceptance on a basis of equality, the renunciant and persons of like ancestry were ostracized and forced to accept refuge from

Exhibit 1—(Continued)

such discrimination, prejudice and hate by a retreat into the mass of persons of like ancestry held in confinement as if they were racial outcasts instinctively seeking refuge in inconspicuousness;

23. Many of the said persons whose names appear on the attached list, at the time of signing said renunciation, were minors under the age of 21 years and hence were laboring under a legal disability. Neither the provisions of the Nationality Act of 1940, as amended, nor any regulations issued pursuant thereto nor the provisions of any other statute or law authorizes a renunciation of U. S. Nationality by a minor under the age of 21 years. Neither under the provisions of 8 USCA, sec. 801(i), nor under the Nationality Regulations is there any authority lodged in the Attorney General or any executive officer to fix 18 years as the age of maturity for renunciation purposes. I wish to point out that there is no legal authority or precedent whatever for acceptance or approval of renunciations executed by persons laboring under legal disabilities. I draw your attention to the fact that not only have minors who signed renunciation forms received notice from your office that such were approved but that others who labored under legal disabilities also have received like notices. I direct your attention to the fact that it is a matter of common knowledge in and about the Tule Lake Center that one person who was hopelessly non compos mentis at the time of signing a renuncia-

Exhibit 1—(Continued)

tion application, upon which a letter issued from your office giving notice of approval thereof, shortly thereafter was hurried away to a State institution for the insane;

24. None of the persons whose name appears on the attached list is a citizen, subject or national of Japan. None of them owes any allegiance to Japan or any foreign sovereign, government, power or nation. None of them has ever had, held or given any such allegiance or acknowledged or recognized any such allegiance. None of them is an alien enemy. None of them is an alien. None of them holds or has at any time ever held or accepted any dual citizenship by any act upon his or her part. It is impossible that any of them at any time could have held any dual citizenship. None of them has at any time accepted or recognized his or her status as being that of a dualistic or pluralistic citizen, such a status being impossible as having been expressly disavowed by the provisions of Title 8 U.S. Code, sec. 800, and its predecessor statute, 8 U.S. Code, sec. 15. If any of said persons at said renunciation hearings or at any time during said confinement stated he or she was a dual citizen such a statement was a mutual mistake of law and also was a mistake of fact then known to be such by the hearing officer, the government and its agents at the time and the same, if made, was made solely by reason of the aforesaid duress and undue influence, and if any such statement was made at

Exhibit 1—(Continued)

any other time it was the product of hearsay, misinformation and guesswork and was a mistake of fact. You are aware that many of the internees at said Center took affirmative steps, prior to the time of evacuation from the west coast, to cancel a dual citizenship they never possessed;

25. I direct your attention to the fact and principle of law that a minor or other person who is under a legal disability and hence is not sui juris could not be bound by a futile registration made by parents which may have been misunderstood by them to confer such a status. As a matter of fact and of law none of the persons whose names appear on the attached list, of whom many are under the age of 21 years, has at any time whatever held, accepted or recognized any citizenship or allegiance to any country or nation save and except that in and to the United States. Each of them recognizes but one sovereign and that sovereign is the United States to which each ever has given his or her undivided loyalty and allegiance. Unfortunately none of them was given an opportunity to demonstrate his or her loyalty affirmatively—imprisonment and mistreatment prevented such demonstration.

V-E Day is long behind us. V-J Day has come and passed. The war long has been over, Mr. Attorney General. The detention even of alien enemies is not now authorized by the Alien Enemy Act which is operative only during wartime and

Exhibit 1—(Continued)

can no longer be justified thereunder. It cannot be asserted with any degree of truth whatever that the Alien Enemy Act may lawfully be invoked to confine citizens, stateless persons or aliens. There now exists no legitimate reason or ground why even alien enemies long resident in this country and not hostile thereto should be confined to an internment camp. There is absolutely no reason or ground that can be offered in justification for the present detention and internment of the persons whom I represent and whose names appear on the attached list whether you view them either as citizens or as stateless persons.

Inasmuch as duress, menace, fraud, mistakes of law and fact, and undue influence caused the execution of the renunciation form on the part of each of the persons whose name appears on the attached list, of which facts you and officers of your Department have knowledge, you are empowered to accept the revocation and cancellation thereof and to withhold, withdraw and revoke any acceptance or approval of each of them, if any such acceptance ever was made or approval ever was given in any case. You are also empowered and authorized to order the release and discharge of each of said persons from internment. Each of said persons demands such a release and discharge from the custody in which he or she now is held by agents acting under your authority, direction and control.

These renunciants whom I represent are long-

Exhibit 1—(Continued)

suffering citizens. They have submitted to grosser indignities and suffered greater losses of rights and liberties than any other group of persons during the entire history of the nation, all without good cause or reason. They have been misunderstood, slandered, abused and long have been held up to public ridicule, shame and contempt. The mistreatment was initiated by an unjustified evacuation from the west coast, was intensified by imprisonment in a concentration camp for over three years, with all the attendant suffering and misery this entailed, and now these internees, faced with a loss of citizenship rights, are confronted with a threatened involuntary deportation to Japan, a country and nation to which they owe no allegiance, which has no claim upon them and with which they are not familiar. It is time this whole pernicious program of oppression was terminated. It is time the exercise of arbitrary and capricious power over them should cease. The damage done them cannot be repaired but further injury can be stopped. You have the right and the power to call halt to this program. You can prevent further mischief being done and thereby alleviate the misery these unfortunate people endure.

In the event that you fail to take immediate action on the foregoing demands each of the persons whose name appears on the attached list, having no alternative save so to do, will institute such legal proceedings as may be lawful and of which

Exhibit 1—(Continued)

he or she may be advised to effectuate the cancellation of his or her aforesaid renunciation form and renunciation of U. S. nationality, to prevent his or her deportation to Japan, to terminate his or her internment and to obtain release from the present restraint upon his or her liberty and to obtain whatsoever other redress law or equity may afford.

Yours very truly,

/s/ WAYNE M. COLLINS,

As Attorney for Each of the Persons Whose Name Appears on the Attached and Annexed List of Names.

Duplicate originals to:

State Department, Washington, D. C.

Alien Property Custodian, Washington, D. C.

Foreign Funds Control Section of the Treasury Department, Washington, D. C.

Federal Bureau of Investigation, Washington, D. C.

Immigration and Naturalization Service of the Department of Justice, Washington, D. C.

Officer in Charge, U. S. Department of Justice Immigration and Naturalization Service, Tule Lake Center, Newell, Modoc County, California, said Of-

Exhibit 1—(Continued)

ficer in Charge presently being Ivan Williams, Tule Lake Center, Newell, Modoc County, California.

"TADAYASU ABO, et al., ..., adults, individually, and as constituting a class, and as representatives of a class,

and

GENSHYO AMBO, et al., ..., minors, individually, and as constituting a class, and as representives of a class, by Harry Uchida, as the next of friend and as guardian ad litem of them and each of them, Applicants and Petitioners."

[Title of District Court and Cause.]

POINTS AND AUTHORITIES IN SUPPORT OF PETITION

I.

Where a person claims to be a citizen of the United States he cannot be deported without a judicial hearing first being had thereon.

Ng Fung Ho v. White, 259 U.S. 276.

Petitioners claim citizenship by birth in this country under the 14th Amendment and Title 8 USCA, sec. 601(a) and that the renunciations are void, ineffectual and should be set aside.

Deportation without a fair and impartial hearing is a denial of due process of law forbidden by the 5th Amendment.

Bridges v. Wixon, 323 U.S. 709.

II.

Treason is a constitutional crime, consisting, among other things, of "adhering" to the Enemies of the United States. U.S. Constitution, Art. III, sec. 3. Treason cannot be authorized by Congress. (Where agents of the government take the initiative to induce acts, which otherwise would be criminal, the action constitutes entrapment.)

Woo Wai v. U.S. (CCA-9), 223 Fed. 412.

Title 8 USCA, sec. 801(i) is void on its face and as applied herein for being in violation of the Constitution, Art. III, sec. 3, authorizing treason.

III.

A renunciation of nationality by a native-born American does not convert the renunciant into an alien enemy or an alien but renders him a stateless person and an inhabitant of this country. Such a renunciation would not in any event make such a person subject to removal or deportation under the provisions of the Alien Enemy Act, 50 USCA, sec. 21, et seq., or to deportation under any other statute. A stateless person is entitled to due process of law under the 5th Amendment as a "person" and is not subject to detention or removal under the Alien Enemy Act. Even the existence of a state of war does not suspend the provisions of the 5th and 6th Amendments.

U.S. v. L. Cohen Grocery Co., 255 U.S. 81.

IV.

Title 8 USCA, sec. 801(i), is void for containing

an unconstitutional delegation of legislative power to the Attorney General of the United States. (Field v. Clark, 143 U.S. 649, 692.)

Title 8 USCA, sec. 801(i), is void for uncertainty and for delegating to the Attorney General as an executive officer a discretionary authority without having set up any standards, guides or policies to which he is to conform. Such a delegation of legislative power is unconstitutional as forbidden by Art. I of the Constitution.

Panama Refining Co. vs. Ryan, 293, U.S. 388;
Schechter Poultry Corp. vs. U.S., 295 U.S. 495.

V.

A person under twenty-one (21) years of age cannot renounce citizenship in the absence of a clear and unambiguous statutory authorization. "Rights of citizenship are not to be destroyed by an ambiguity."

Perkins v. Elg., 307 U.S. 325, 337.

Title 8 USCA, sec. 801(i), lodges no power in the Attorney General to approve renunciations of persons under 21 years of age. (Title 8 USCA, sec. 803(b), merely states that persons under 18 years cannot be expatriated under the conditions therein specified—nothing more.)

VI.

The Alien Enemy Act, 50 USCA, sec. 21 et seq., authorizes the detention and removal of hostile alien enemies during the actual time of war, not before

or afterward; and even an alien enemy is deportable in wartime only after judicial hearing in which his rights first are determined. 50 USCA, sec. 23.

VII.

A loyal citizen cannot be detained.

Ex parte Endo, 65 S.Ct. 208.

Respectfully submitted,

/s/ WAYNE M. COLLINS,
Attorney for Petitioners.

[Title of District Court and Cause.]

ORDER APPOINTING NEXT OF FRIEND AND GUARDIAN AD LITEM FOR MINOR APPLICANTS AND PETITIONERS

Upon reading and filing the verified application and petition for Writ of Habeas Corpus herein, and on the motion of Wayne M. Collins, Esq., attorney for applicants and petitioners, and good cause appearing therefor,

It Is Ordered That the minors named in the above-named cause be and each of them is hereby authorized to appear herein by Harry Uchida as his or her next of friend and as guardian ad litem of them and each of them.

Dated: November 13, 1945.

/s/ A. F. ST. SURE,
U. S. District Judge.

[Endorsed]: Filed Nov. 13, 1945.

[Title of District Court and Cause.]

STIPULATION

Whereas, the respondent Ivan Williams, in habeas corpus proceedings No. 25296 and No. 25297 filed herein on November 13, 1945, which have been consolidated for hearing and trial purposes under No. 25294, herein with equity proceedings No. 25294 and No. 25295 involving the identical plaintiffs who are named applicants and petitioners in said habeas corpus applications and petitions, and the Attorney General of the United States and the United States District Attorney for this District, as his representatives, desire that the orders to show cause issued in said proceedings Nos. 25296 and 25297 on November 13, 1945, be continued from the return date of December 10, 1945, and be made returnable before the above-entitled Court on January 10, 1946, and whereas applicants and petitioners in said habeas corpus proceedings consent thereto,

It Is Hereby Stipulated between applicants and petitioners and the respondent Ivan Williams in said habeas corpus proceedings Nos. 25296 and 25297 that the hearing of the orders to show cause heretofore issued therein directed to respondent Ivan Williams may be continued from December 10, 1945, to January 10, 1946, and be made returnable before the above-entitled Court on said January 10, 1946, and that the orders therein contained ordering the said respondent to retain the custody of said petitioners and each of them within the

jurisdiction of this Court until its further order in said proceedings shall remain in full force and effect and shall be included in any continuance order to be granted respondent by the Court upon this stipulation consenting to the continuance of the hearings of the said orders to show cause to said January 10, 1946;

And It Is Further Stipulated that the respondent will retain the custody of the applicants and petitioners and each of them within the jurisdiction of the above-entitled court until said January 10, 1946, and thereafter until the further order of the said Court; and it also is stipulated that neither a copy nor a duplicate original of this stipulation nor of the order of this Court continuing the hearing on said orders to show cause or either of them need be personally served upon respondent Ivan Williams by applicants and petitioners, the undersigned attorneys for said respondent consenting to acknowledge service thereof for said respondent.

Dated: November 23, 1945.

/s/ WAYNE M. COLLINS,
Attorney for Applicants and Petitioners.

TOM C. CLARK,
Attorney General of the U. S.

FRANK J. HENNESSY,
U. S. Attorney.

By /s/ R. B. McMILLAN,
Assistant U. S. Attorney,
Attorneys for Respondent.

[Endorsed]: Filed Nov. 23, 1945.

[Title of District Court and Cause.]

ORDER

Upon reading and filing the written stipulation dated November 23, 1945, entered into by the parties in the above-entitled proceedings consenting that the hearing of the order to show cause heretofore issued herein and directed to the respondent Ivan Williams may be continued to January 10, 1946.

It Is Ordered that the hearing of the Order to Show Cause heretofore issued herein on November 13, 1945, be continued to January 10, 1946, for hearing, and that the respondent Ivan Williams shall retain the petitioners in the said proceeding and each of them within the jurisdiction of this Court until this Court's further order herein.

Dated: November 23, 1945.

/s/ A. F. ST. SURE,
U. S. District Judge.

Service of copies of the above order is hereby acknowledged by the Respondent, Ivan Williams, and his counsel this 23rd day of November, 1945.

IVAN WILLIAMS,
Respondent.
By TOM C. CLARK,
Attorney General of U. S.

And
FRANK J. HENNESSY,
U. S. Attorney.
By /s/ ROBERT B. McMILLAN,
Assistant U. S. Attorney,
Attorneys for Respondent.

[Endorsed]: Filed Nov. 23, 1945.

[Title of District Court and Cause.]

ORDER TO SHOW CAUSE

Upon reading and filing the verified petition for Writ of Habeas Corpus herein, and good cause appearing therefor.

It Is Ordered That the respondent, Ivan Williams, as the Officer in Charge, United States Department of Justice, Immigration and Naturalization Service, Tule Lake Center, Newell, Modoc County, California, appear before this Court on the 10th day of December, 1945, Department ...., Post Office Building, 7th and Mission Streets, San Francisco, California, at the hour of 10:00 o'clock A.M. of said day, to show cause, if any he has, why a writ of habeas corpus should not be issued herein for each and all of the petitioners named in the petition and why the relief prayed for in the said petition should not be granted and the petitioners and each of them be restored to his or her liberty, and that a copy of this Order be served upon said respondent, and a copy of the petition and this

order be served upon the United States Attorney for this District, his representative herein;

And It Is Further Ordered that the said respondent who now has the custody of said petitioners shall retain the said petitioners and each of them within the jurisdiction of this Court until its further order herein.

Dated: November 13, 1945, San Francisco, California.

A. F. ST. SURE,
U. S. District Judge.

Marshal's copy.

Received U. S. Marshal's Office, S. F., Calif., Nov. 13, 1945.

Original filed Nov. 13, 1945, U.S.D.C.

Return on Service of Writ

United States of America,
Northern Division of California—ss.

I hereby certify and return that I served the annexed Order to Show Cause on the thereinnamed Ivan Williams, as the Officer in Charge, United States Department of Justice, Immigration and Naturalization Service, Tule Lake Center, Newell, Modoc County, California, by handing to and leaving a true and attested copy thereof with copy of Petition for Writ of Habeas Corpus at-

tached, with Ivan Williams personally at Tule Lake in said District on the 14th day of November, 1945.

26777/25296-R

GEORGE VICE,
U. S. Marshal.
By /s/ WARREN D. CAIN,
Deputy.

Return on Service of Writ

United States of America,
Northern District of California—ss.

I hereby certify and return that I served the annexed Order to Show Cause on Tom Clark, as Attorney General of the United States, by mailing by registered mail—a true and correct copy thereof with copy of Petition for Writ of Habeas Corpus attached, to Tom Clark, Attorney General of the United States at Washington, D. C., on the 13th day of November, 1945.

26777/25296-R

GEORGE VICE,
U. S. Marshal.
By /s/ WARREN D. CAIN,
Deputy.

Return on Service of Writ

United States of America,
Northern District of California—ss.

I hereby certify and return that I served the annexed Order to Show Cause on Frank J. Hennessey, United States Attorney for the Northern District of California by handing to and leaving a true and correct copy thereof with copy of Petition for Writ of Habeas Corpus attached, with Frank J. Hennessey, United States Attorney, personally at San Francisco in said District on the 13th day of November, 1945.
26777/25296-R

GEORGE VICE,
U. S. Marshal.
By /s/ WARREN D. CAIN,
Deputy.

[Endorsed]: Filed Nov. 28, 1945.

[Title of District Court and Cause.]

STIPULATION AND ORDER

Whereas the Attorney General of the United States, through the instrumentality of the United States Department of Justice, a federal agency, as also the respondent herein, his agent, contemplates and intends to conduct "mitigation-hearings" of persons asserted to be renunciants of United States nationality who are detained in the custody of the respondent at the Tule Lake Center, Newell, Modoc

County, California, and of certain other asserted renunciants detained under his authority at the Fort Lincoln Detention Camp at Bismarck, N. D., and at the Alie nInternment Camp at Santa Fe, New Mexico, and including the petitioners named in the above-entitled proceeding who are detained in custody of the respondent at said Tule Lake Center and also those similarly detained persons who, from time to time, may be joined and included as petitioners in said class action or proceeding, and

Whereas at said such hearings which are expected to be commenced during the month of January, 1946, such asserted renunciants are to be given an opportunity to show cause why they should not be deported to Japan by the said Attorney General, and

Whereas it is agreed by the parties hereto and said Attorney General that such petitioners shall not file individual written statements on any applications for any such mitigation hearings or be required to make oral statements at such hearings reserving their rights which would increase to an enormous extent the paper work of the examiners who are to conduct such hearings and absorb an unusual amount of their time,

It Is Stipulated between the parties hereto and said Attorney General that neither the application of any of said such petitioners to have such mitigation hearings nor their submission thereto shall operate as or constitute a waiver of any constitu-

tional, statutory or other legal rights or remedies asserted in the above entitled proceeding by any applicant or petitioner nor shall the same in anywise bar or prejudice their right to maintain said proceeding.

Dated: December 31, 1945.

/s/ WAYNE M. COLLINS,
Attorney for Applicants and Petitioners.

TOM CLARK,
Attorney General of U. S.

IVAN WILLIAMS,
Respondent.

By FRANK J. HENNESSY,
U. S. Attorney.

By /s/ [Illegible.]
Assistant U. S. Attorney.
Attorneys for Respondent.

So Ordered: December 31, 1945.

/s/ A. F. ST. SURE,
U. S. District Judge.

[Endorsed]: Filed Dec. 31, 1945.

[Title of District Court and Cause.]

STIPULATION AND ORDER

Whereas the Attorney General of the United States, through the instrumentality of the United States Department of Justice, a federal agency, as

also the respondent herein, his agent, contemplates and intends to conduct "mitigation-hearings" of persons asserted to be renunciants of United States nationality who are detained in the custody of the respondent at the Tule Lake Center, Newell, Modoc County, California, and of certain other asserted renunciants detained under his authority at the Fort Lincoln Detention Camp at Bismarck, N. D., and at the Alien Internment Camp at Santa Fe, New Mexico, and including the petitioners named in the above-entitled proceeding who are detained in custody of the respondent at said Tule Lake Center and also those similarly detained persons who, from time to time, may be joined and included as petitioners in said class action or proceeding, and

Whereas at said such hearings which are expected to be commenced during the month of January, 1946, such asserted renunciants are to be given an opportunity to show cause why they should not be deported to Japan by the said Attorney General, and

Whereas it is agreed by the parties hereto and said Attorney General that such petitioners shall not file individual written statements on any applications for any such mitigation hearings or be required to make oral statements at such hearings reserving their rights which would increase to an enormous extent the paper work of the examiners who are to conduct such hearings and absorb an unusual amount of their time,

It Is Stipulated between the parties hereto and said Attorney General that neither the application of any of said such petitioners to have such mitigation hearings nor their submission thereto shall operate as or constitute a waiver of any constitutional, statutory or other legal rights or remedies asserted in the above entitled proceeding by any applicant or petitioner nor shall the same in anywise bar or prejudice their right to maintain said proceeding.

Dated: December 31, 1945.

/s/ WAYNE M. COLLINS,
Attorney for Applicants and Petitioners.
TOM C. CLARK,
Attorney General of U. S.
IVAN WILLIAMS,
Respondent.
By FRANK J. HENNESSY,
U. S. Attorney.
By /s/ WILLIAM E. LICKING,
Assistant U. S. Attorney.
Attorneys for Respondent.

So Ordered: December 31, 1945.

/s/ A. F. ST. SURE,
U. S. District Judge.

[Endorsed]: Filed Dec. 31, 1945.

[Title of District Court and Cause.]

STIPULATION AND ORDER

Whereas the Attorney General of the United States, through the instrumentality of the United States Department of Justice, a federal agency, as also the respondent herein, his agent, contemplates and intends to conduct "mitigation-hearings" of persons asserted to be renunciants of United States nationality who are detained in the custody of the respondent at the Tule Lake Center, Newell, Modoc County, California, and of certain other asserted renunciants detained under his authority at the Fort Lincoln Detention Camp at Bismarck, N. D., and at the Alien Internment Camp at Santa Fe, New Mexico, and including the petitioners named in the above-entitled proceeding who are detained in custody of the respondent at said Tule Lake Center and also those similarly detained persons who, from time to time, may be joined and included as petitioners in said class action or proceeding, and

Whereas at said such hearings which are expected to be commenced during the month of January, 1946, such asserted renunciants are to be given an opportunity to show cause why they should not be deported to Japan by the said Attorney General, and

Whereas it is agreed by the parties hereto and said Attorney General that such petitioners shall

not file individual written statements on any applications for any such mitigation hearings or be required to make oral statements at such hearings reserving their rights which would increase to an enormous extent the paper work of the examiners who are to conduct such hearings and absorb an unusual amount of their time,

It Is Stipulated between the parties hereto and said Attorney General that upon applying for or submitting to such a mitigation hearing each petitioner in the above entitled proceeding shall be deemed to have objected to such hearing upon the grounds that he or she is a native born citizen of the United States and not subject thereto, and that he or she does not intend the same to operate as or constitute a waiver of any constitutional, statutory, or other legal right or remedy asserted in the above entitled proceeding by him or her, or in any wise to bar or prejudice his or her right to maintain said proceeding.

It Is Further Stipulated that the stipulation dated December 31, 1945, executed by William E. Licking for respondent, and the order of Court made thereon and filed herein on December 31, 1945, be vacated and set aside.

Dated: January 2, 1946.

/s/ WAYNE M. COLLINS,
Attorney for Applicants and Petitioners.

TOM C. CLARK,
Attorney General of U. S.

IVAN WILLIAMS,
Respondent.
By /s/ FRANK J. HENNESSY,
U. S. Attorney.
By /s/ ROBERT B. McMILLAN,
Assistant U. S. Attorney,
Attorneys for Respondent.

So Ordered: January 2, 1946.
/s/ A. F. ST. SURE,
U. S. District Judge.

[Endorsed]: Filed Jan. 2, 1946.

[Title of District Court and Cause.]

STIPULATION AND ORDER

It Is Stipulated between the parties hereto that the Order To Show Cause heretofore issued and made returnable herein on January 10, 1946, may be continued on the court's calendar and be returnable on February 11, 1946, for hearing, and that the respondent Ivan Williams shall retain the petitioners in said proceeding and each of them within the jurisdiction of this Court until this Court's further order in said proceeding.

Dated: January 2, 1946.
/s/ WAYNE M. COLLINS,
Attorney for Petitioners.
TOM CLARK,
Attorney General of U. S.

FRANK J. HENNESSY,
U. S. Attorney.
By /s/ ROBERT B. McMILLAN,
Assistant U. S. Attorney.
Attorneys for
Respondent.

So Ordered: January 2, 1946.
/s/ A. F. ST. SURE,
U. S. District Judge.

[Endorsed]: Filed Jan. 2, 1946.

[Title of District Court and Cause.]

SUPPLEMENT AND AMENDMENT TO PETITION FOR WRIT OF HABEAS CORPUS

Come the petitioners in the above-entitled proceeding, supplementing and amending the petition for writ of habeas corpus herein by the following allegations to be added to Paragraph VI (A)(4) of said petition, immediately following the matter ending on line 25 of page 16 of said Petition For Writ of Habeas Corpus, to-wit:

* * *

(c) The pressure groups and gangs, mentioned in paragraph VI of said "Petition for Writ of Habeas Corpus," originated in said Tule Lake Center in 1944 as a Japanese educational and cultural movement sponsored and fostered by the War Relocation Authority, a federal executive agency

to the charge of which the evacuees in said Center, including all the petitioners herein, were committed; said movement, then and thereafter until all the renunciation forms therein mentioned had been signed and pseudo-hearings held thereon, was conducted with the full knowledge and consent of said agency and under the eyes of its officers, agents and employees; said movement developed into a racket cast in the form of an inocuous appearing "innocents front" organization; thereafter, by its organizers, leaders and controllers, a majority if not all of whom were aliens of Japanese nativity, it was converted into a pro-Japanese nationalistic movement; at the time of said renunciation hearings it had developed into and was an active terroristic movement controlled by a leadership of such aliens whose design, purpose and actions gave such direction thereto and compelled in excess of eighty (80%) per cent of the total number of citizen prisoners over 18 years of age there confined who signed renunciation applications, included in which percentage is each petitioner herein, to sign applications for renunciation of U. S. nationality, all as admitted by the Government and therefore by respondent in Exhibit "2" attached hereto and made a part hereof; that the real nature, purposes and bent of said movement, under such leadership, was concealed from its inactive members who had joined it when it appeared to them to be a simple educational and cultural movement as aforesaid, and when its true nature and purposes had not been re-

vealed and were not discernible; that when the true nature and purposes thereof became apparent many members thereof did not dare to protest the course thereof or openly resign therefrom because of the coercion of said groups and gangs and for fear their own personal security and the security of members of their families thereby would be endangered, and many persons confined to said Center, including some of the petitioners herein, were compelled to join the same as inactive members for like security reasons while acting in fear of said groups and gangs by reason of said coercion and while held in duress by them.

(d) That while the aforesaid campaign of terror was reigning at said Tule Lake Center and as the proximate result thereof 5,371 native-born Americans over 18 years of age, among whom are each of the petitioners, executed applications for renunciation of United States nationality; that in excess of 5,346 of said native-born Americans, including each of the petitioners, did so as the direct and proximate result of and by virtue of the duress in which they then and there and for a long period of time prior thereto had been held by the United States Government, its agents, servants and employees and particularly by the War Relocation Authority aforesaid, and by virtue of the fraud, menace and undue influence of the aforesaid groups and gangs operating therein and the duress in which they were held by said groups and gangs and against which the United States Government, its

agents, servants and employees and particularly the War Relocation Authority gave the petitioners no protection but openly allowed and therefore aided, abetted and participated in;

That the United States Government, by and through the Department of the Interior and the Secretary of the Interior as the head of the War Relocation Authority to whose charge petitioners and all prisoners confined in said Tule Lake Center were committed at the time of said renunciations, through the Under Secretary of the Interior, on August 6, 1945, made an executive finding in writing, admitting and publishing therein the fact that it was "primarily due" to the undue influence, fraud, menace and duress practiced upon the evacuees detained in said Center by the aforesaid groups and gangs that caused renunciation applications to be signed by "over 80% of the citizens" there confined who were deemed eligible to renounce U. S. nationality; that a photostat copy of said writing is attached hereto, made a part hereof and is marked Exhibit "2"; that the responsibility for and the cause of in excess of 5,346 of said 5,371 total of said renunciations rests with the War Relocation Authority to which agency the immediate charge of said persons in said Center was committed for carrying into execution the policy adopted by it and under which it sponsored and fostered the cultural movement aforesaid and permitted the diversion thereof into the terroristic movement aforesaid and for its failure and refusal to take precaution-

ary measures to prevent such rule of terror and to protect the petitioners from harm and to safeguard their rights as American citizens;

(e) Shortly after the time the said applications for renunciation had been signed at said Center by the petitioners the government of the United States, acting by and through the War Relocation Authority, and its agents, suddenly formulated and carried into execution the following program and policy, to wit:

It seized all the organizers, leaders and active members of the aforesaid pro-Japanese nationalistic pressure groups and gangs, the great majority of whom were aliens of Japanese nativity, along with many other aliens and native-born Americans of Japanese ancestry then confined to said Center and who were harmless and innocent of any wrong doing and who never at any time were hostile or dangerous to our security or to the security of any person in said Center, and forcibly removed them to internment camps situated in Bismarck, N. D., Santa Fe, N. M., and Crystal City, Texas, from whence all of the organizers, leaders and active members and persons then of disloyal bent thereafter and since the filing of this petition were voluntarily repatriated to Japan by the U. S. Government; in addition to said persons so repatriated, a number of native-born Americans and alien Japanese innocent of wrong doing voluntarily repatriated to Japan therefrom because of their aforesaid long mistreatment of this government, in-

cluding among them a number of American nationals, renunciants and inactive members of said pressure groups who were subject to the undue influence of and under the duress of said groups and gangs and whose repatriation was due to the undue influence and duress thereof; that in excess of 8000 persons of Japanese ancestry have been repatriated to Japan from said Center and camps; that in excess of twenty (20%) per cent of the renunciants originally confined to said Center who signed said renunciation applications have since then been repatriated to Japan from said Tule Lake Center, the Fort Lincoln Internment Camp at Bismarck, North Dakota, the Alien Internment Camp at Santa Fe, New Mexico, and the Alien Internment Camp at Crystal City, Texas;

All the renunciants, including petitioners, who have not been repatriated or deported to Japan are either persons who never were members of or associated with the aforesaid pressure movement, groups and gangs or are persons who resigned from said movement upon learning the true character and purposes thereof and who did not participate in or sympathize with the unlawful and wrongful acts and purposes thereof or who were forced to join the same to avert danger to themselves or members of their families and who resigned therefrom or ceased to have connection with the same upon learning the true nature and character thereof;

That while the petitioners were in the aforesaid Tule Lake Center they, as also those who later

were incarcerated in Bismarck and Santa Fe, constantly were subjected to the surveillance, menace, fraud and undue influence of said leaders of said movement, which was carried over into the said Camps at Bismarck and Santa Fe by leaders and active members thereof who had been transported thereto, as aforesaid, and who there established and carried on a like reign of terror over the persons there confined; that said menace, fraud and undue influence and duress did not abate until the Government initiated its program of voluntary repatriation to Japan and did not cease until all the leaders thereof in said Center and Camps had been repatriated subsequent to the filing of this suit;

(f) That the pseudo-hearings conducted by the Government on the renunciation applications at said Center were arbitrary, unreasonable and oppressive and petitioners thereat were deprived of the benefit of and the assistance of counsel, as aforesaid; that at the "mitigation-hearings" conducted after the filing of this suit at the Tule Lake Center, the Fort Lincoln Internment Camp at Bismarck and the Alien Internment Camp at Santa Fe, during January and February of 1946, at which the petitioners were ordered by the Attorney General of the United States to show cause why they by him should not be deported to Japan, each was arbitrarily subjected to such examination or hearing by said Attorney General and was denied the right and opportunity to be represented thereat by their counsel; that said hearings, in truth and in fact,

were pseudo-hearings in which the petitioners summarily were scheduled for such examinations before hearing officers, appointed by the Attorney General, without reasonable time or opportunity to prepare therefor or to obtain witnesses or evidence in their behalf; that neither petitioners nor witnesses thereat were sworn; that the hearings were unduly brief; that neither the opportunity nor the privilege of inspection of any evidence or evidence adverse to them was afforded petitioners nor was any adverse evidence offered against them; that at said hearings, as also upon a review of the recommendations of such hearing officers by the Attorney General and his reviewing staff thereon, said hearing officers, the Attorney General and his said reviewing staff, in refusing to recommend many petitioners for release from detention and to release them therefrom, considered and gave controlling weight to secret information contained in files maintained by such officers which was never made known to said petitioners and was not introduced into evidence at said hearings against them, and based such refusals upon whim and caprice; that at said fictitious administrative hearings, as also at the pseudo-hearings on the renunciation applications aforesaid, the hearing officers or examiners exacted statements and evidence from said petitioners and used information from their own secret dossiers against them as part of the systematic duress in which the government long had held and then was holding petitioners; that no evidence of

an adverse character was adduced at said hearings against any petitioners or that in anywise showed or tended to show any petitioner was hostile or dangerous to the security of this country; that said hearings were arbitrary, unreasonable and oppressive in character and wholly unfair and impartial and in violation of the 5th Amendment's guaranty of due process of law.

(g) That at said Tule Lake Center during October, 1945, and ever since then, and on in excess of twenty (20) occasions, the said War Relocation Authority has made recordings of the long distance telephone conversations had between said Center and San Francisco between petitioners and their counsel concerning their rights and the progress of this suit and has published the same despite the fact that the same was and is an interference with the privilege communication relationship existing between petitioners and their said counsel, and interference with their right of privacy and a denial of their right to counsel and a deprivation of their rights safeguarded by the 4th and 5th Amendments; that said practice upon the part of said War Relocation Authority has been and is a part of the generalized duress in which the petitioners have been and are held by the Government;

(h) Prior to the time of the aforesaid renunciation hearings the U. S. Government, through the War Relocation Authority, set up at the Tule Lake Center a special jail, termed "The Stockade," within the limits of said prison or concentration camp

wherein, without cause, it "incarcerated" innocent citizens, detained in said Center, without accusation of crime or wrong-doing on their part and without hearings on the cause therefor at any time having been afforded them and without allowing them the assistance of counsel and there held hundreds of them incommunicado for various periods of time ranging from a few hours to 360 days, all without cause; that said practice was designed to instil and did instil in the prisoners-evacuees confined to said Center an unwholesome fear of the arbitrary governmental power wielded over the evacuees confined to said Center and was a part and phase of the generalized campaign of duress in which the Government held the residents of said Center and said practice was continued during the time of said renunciation hearings and thereafter; that in August, 1944, the threat of filing habeas corpus petitions for fourteen (14) persons, and in August, 1945, the filing of five (5) petitions in this Court for writs of habeas corpus for five persons, succeeded in liberating the total nineteen residents of said Center then unlawfully jailed in said Stockade.

(i) That as part of the Government's systematic program of duress in which it held the petitioners and all residents in said Center the War Relocation Authority set up, established and maintained for the past four years a slavery and peonage system at said Center; in furtherance of this oppression it organized in said Center what is known as the

"Recreation Club" for the private and personal benefit of the Caucasian employees of said War Relocation Authority who were members thereof and through such an instrumentality deliberately exploited persons of Japanese ancestry confined to its charge; pursuant thereto members thereof paid into said Club the sum of $30.00 per month and the said Club thereupon hired out to such member one of the internees to serve such member in private employment in the capacity of a slave or peon, either as house-maid, domestic, servant, cook, janitor, waitress, mess-attendant or in another menial capacity, and paid such person therefor either the sum of $16.00 or $19.00 per month, depending upon the character of the service, for labor performed on a forty (40) hour week basis, the remainder of the $30.00 being retained by said Club with the exception of $3.75 which the War Relocation Authority required the Club to pay such slave as a clothing allowance; that hundreds of the prisoners confined to said camp were thus exploited under this elaborate system of slavery and peonage maintained at said Center, all in violation of the provisions of the 13th and 5th Amendments of the Constitution.

(j) On December 17, 1944, effective as at January 2, 1945, General H. Pratt, Major General, U. S. A., in command of the Western Defense Command and Fourth Army, promulgated Public Proclamation No. 21 which revoked the 108 mass "civilian exclusion orders" theretofore issued by

Lt. General John L. DeWitt, his predecessor in said command, and revoked the restrictions theretofore placed upon petitioners and all persons of Japanese ancestry affected thereby and said proclamation was an executive judgment and based upon executive findings that none of the persons affected thereby, including the petitioners herein, was hostile or dangerous to the security of the United States of America;

On September 4, 1945, said General Pratt, as such military commander, promulgated Public Proclamation No. 24 which rescinded "all Individual Exclusion Orders in Effect" as of that date and removed all military prohibitions against the entry and presence of all persons affected thereby within the West Coast Exclusion Zone, and said proclamation was an executive judgment and based upon executive findings that none of the persons against whom individual exclusion orders theretofore had issued, including any petitioner herein if any such order prior thereto had issued against him or her, was hostile or dangerous to the security of the United States of America.

Wherefore, petitioners pray for the judgment and relief prayed for in the petition for writ of habeas corpus herein.

Dated February 23, 1946.

/s/ WAYNE M. COLLINS,
Attorney for Petitioners.

GOVERNMENT'S EXHIBIT No. 2

United States Department of the Interior
Office of the Secretary
Washington

Mr. Ernest Besig,
Director, Northern California Branch,
American Civil Liberties Union,
216 Pine Street,
San Francisco 4, California.

My dear Mr. Besig:

This is in further reply to your letters of July 6 and July 17 concerning detentions at Tule Lake for violation of the special project regulations prohibiting Japanese nationalistic activities. We have completed our investigation and in this letter I shall report rather fully our findings and conclusions.

Basically there are, I believe, three points that concern you: (1) the need for and hence the reasonableness of the special project regulations, (2) the apparent lack of any limitations upon the discretion of the Project Director in enforcing the regulations, and (3) an apparent abuse of authority in imposing certain sentences involving minors. I should like to take up each of these points in turn.

1. When Tule Lake became a segregation center, WRA adopted a policy of permitting evacuees to operate Japanese language schools and engage in Japanese cultural activities, in recognition of

the fact that many of the residents sincerely desired repatriation to Japan and that their children should be given an opportunity to become acquainted with Japanese culture. Unfortunately this policy was utilized as an entering wedge by a number of strongly pro-Japanese evacuees for the formation of virulently pro-Japanese nationalistic organizations. These evacuees were motivated chiefly by the desire to attain standing in the eyes of the Japanese government and obtain positions of leadership in the colony. To this end they instituted Japanese-type military drill, mass exercises, bugling, wearing of Japanese insignia, emperor worship ceremonials, pro-Japanese demonstrations, and other purely Japanese nationalistic activities designed not to serve any cultural purposes but to instill in the Tule Lake people a fanatical devotion to the principles of the militarist regime in Japan. By preying on fear of Selective Service they induced parents to exert pressure on their children to join the organizations. In addition they resorted to intimidation, threats of violence and actual violence in coercing residents to join the organizations and participate in their demonstrations. It was primarily due to the pressures of these organizations that over 80 per cent of the citizens eligible to do so applied for renunciation of citizenship this past winter. When Department of Justice representatives arrived at Tule Lake to conduct hearings on applications, the organizations stepped up their demonstrations and their pres-

sures on the applicants. Undoubtedly many of the applicants were in the grip of the emotional hysteria created by these organizations, or actually acting under fear of violence, in confirming their desire to renounce citizenship during the hearings. The general uniformity of the answers given indicated that the applicants were well coached. These facts are reflected in an increasing volume of cancellation requests from Tule Lake renunciants, who frankly state in many cases that they were acting under compulsion in renouncing their citizenship.

On January 19, 1945, Mr. John Burling, special representative of the Attorney General conducting renunciation hearings at Tule Lake, addressed a letter to the heads of the two principal organizations setting forth the position of the Department of Justice toward the activities of the organization. A copy of that letter is enclosed (Exhibit I). In that letter Mr. Burling, speaking for the Attorney General, strongly condemned the activities of the organizations and stated that they must stop. Despite this letter, which was widely circulated in the center, the activities of the organizations did not abate. In order to maintain peace and order, protect the Tule Lake residents who were loyal to this country or who disagreed with the aims and objectives of the organizations, and to stop the subversive activities of these groups, two steps were taken. One was the transfer of the known alien leaders of the organizations (including persons who had renounced their citizenship) to in-

ternment camps. The other was the adoption of the special project regulations prohibiting the overt demonstrations which were fundamental to the organizations' programs.

As a result of these two steps the organizations have lost much of their prestige. Many evacuees who joined the organizations have notified WRA of their withdrawal from membership. Opposition to the organizations has come out of hiding. Nevertheless the influence of the organizations is still strong, and their activities continue. The Director of the War Relocation Authority believes enforcement of the special project regulations is still necessary in order to maintain law and order at Tule Lake and guarantee to the law-abiding residents the right to live in peace and free from fear of violence and recrimination for failure to assert aggressive loyalty to Japanese war aims. In the light of the facts I am unable to disagree with his conclusion.

2. As you state, the special project regulations assign no definite penalty for the prohibited acts. These regulations were, however, issued under and subject to the provisions of WRA internal security regulations applicable to all centers (Exhibit II). These over-all regulations prescribe procedural safeguards with respect to arrests and prompt arraignment and hearing. The right of the accused to counsel is guaranteed and the Project Director is specifically responsible for seeing that a complete case is fairly presented. The maximum penalty that can be imposed by a Project Director for

commission of any one offense is imprisonment for not more than three months. In addition, any evacuee may of course carry his case directly to the Director of the Authority if he believes that he has been unjustly dealt with, and during the course of center operations a number of evacuees have done so.

Our investigation has revealed no departure from these over-all regulations by the Project Director in the enforcement of the special project regulations. While the sentence imposed in a number of cases has exceeded 90 days, this has been because more than one offense was committed. We have found no instance in which the sentence imposed exceeded 90 days on any one count. Out of 454 persons apprehended for open violation of the special project regulations, 424 have been released without further action, after lectures on their behavior. Eleven received sentences ranging from 90 to 270 days. The remainder received sentences of 90 to 360 days, with 60 to 250 days of the sentence suspended on condition that they not violate the regulations after release. It has been the general practice to carry out sentences of imprisonment only in cases where the violator is recalcitrant and states that he will continue to disregard the regulations if released. I believe that these facts reflect sane and considerate handling of this difficult problem.

3. Four recent cases of violation, including the two you mention in your letter of July 6, have involved persons under 18 years of age. Reports on these cases are enclosed (Exhibit III). Despite the

youth of the offenders, the facts in the cases do not indicate in my judgment that the sentences imposed were unnecessarily harsh or that the cases could have been handled satisfactorily in some other manner.

None of the four youths involved in these cases has been classified as a detainee by the Western Defense Command or by the Department of Justice. So long as they wish to remain residents of the center they will be required under WRA regulations to serve their sentences. They are, however, free at any time to leave the center even if they are serving a sentence for violation of center regulations. The War Relocation Authority does not maintain that it has power to detain any person who is eligible to leave the center and wishes to do so, even if he is being disciplined for violation of project regulations. Administrative Notice No. 207, which prescribes this policy, is enclosed (Exhibit IV). I should also point out that the Authority could legally expel any such person from a center, although as a matter of policy this power is exercised only in aggravated cases.

In summary, I am unable to conclude on the basis of our investigation that the special project regulations are unnecessary, that the WRA procedures for enforcement of the regulations are unreasonable, or that the Project Director at Tule Lake has exceeded his authority or been other than temperate under the circumstances in enforcing the regulations. I do not, of course, believe that my

judgment should interfere with any action that the American Civil Liberties Union might deem appropriate under the circumstances. I should like to point out, however, that action such as you propose will doubtless be widely publicized. Enemies of the evacuees on the West Coast will undoubtedly play up the activities of the pro-Japanese organizations which will be the basis for the Government's defense. So far as the long run interests of persons of Japanese ancestry in this country are concerned, I think that the contemplated action would be a serious mistake.

Sincerely yours,

/s/ ABE FORTAS,

Under Secretary.

United States of America,
State of California,
County of Modoc—ss.

Harry Uchida, being first duly sworn, deposes and says: that he is one of the petitioners in the foregoing Supplement and Amendment to Petition For Writ of Habeas Corpus named; that he is detained at the Tule Lake Center, Newell, Modoc County, California; that he makes this affidavit and verification thereof on his own behalf as such a petitioner, and on behalf of each and all the petitioners therein, each of whom likewise is confined and detained at said Tule Lake Center by respondent, and each of whom has authorized him so to do, and because it is impracticable to have the same

verified by each of them by reason of the said confinement and detention of each, their large number and the long period of time which would be required and be consumed to have such done; that he personally knows the facts set forth in said supplement which apply equally to each and all of said petitioners; that he has read the foregoing Supplement and knows the contents thereof; that the same is true of his own knowledge except as to the matters therein stated upon information or belief and as to such that he believes it to be true.

/s/ HARRY UCHIDA.

Subscribed and sworn to before me this 24th day of February, 1946.

[Seal] /s/ JOE J. THOMAS,

Notary Public in and for the County of Modoc, State of California.

My Commission Expires Sept. 20, 1949.

[Endorsed]: Filed Mar. 4, 1946.

It is stipulated that the foregoing pleading supplementing and amending the petition for writ of habeas corpus herein be filed herein as such pleading and that service thereof be deemed to have been made on respondent this 4th day of March, 1946.

IVAN WILLIAMS,
Respondent.
TOM C. CLARK,
Attorney General.
FRANK J. HENNESSY,
U. S. Attorney.
By /s/ R. B. McMILLAN,
Assistant U. S. Attorney,
Attorneys for Respondent.

The foregoing Supplement and Amendment to Petition for Writ of Habeas Corpus is hereby ordered filed as such pleading in the above-entitled proceeding this 4th day of March, 1946.

/s/ A. F. ST. SURE,
U. S. District Judge.

[Title of District Court and Cause.]

STIPULATION AND ORDER RE PRODUCTION OF PETITIONERS

It Is Stipulated between the parties hereto that the petitioners in this proceeding who are not released from custody while in Northern California

or elsewhere by the respondent or by order of the Attorney General of the United States and who shall be transferred, in custody, for the convenience of the Government, to an internment camp or place of restraint other than the Tule Lake Center, Newell, Modoc County, California, whether the same be situated in Santa Fe, New Mexico, Crystal City, Texas, or elsewhere, will be produced before the above-entitled Court for hearing or trial purposes in the above-entitled proceeding, upon reasonable notice, by the United States Government, the Attorney General of the United States, or the respondent as their agent.

Dated: March 14, 1946.

/s/ WARNE M. COLLINS,
Attorney for Applicants
and Petitioners.
IVAN WILLIAMS,
Respondent.
TOM C. CLARK,
Attorney General.
FRANK J. HENNESSY,
U. S. Attorney.

By /s/ R. B. McMILLAN,
Assistant U. S. Attorney,
Attorneys for Respondent.

So Ordered: March 14, 1946.

/s/ A. F. ST. SURE,
U. S. District Judge.

[Endorsed]: Filed Mar. 14, 1946.

[Title of District Court and Cause.]

MOTION TO STRIKE

Respondent Ivan Williams moves to strike from the Petition for Habeas Corpus and the Amendment and Supplement thereto filed herein certain redundant, immaterial and impertinent matter identified below.

I.

Exhibit 1 to the Petition as originally filed and Exhibit 2 to the "Supplement and Amendment to Petition * * *" herein, comprise evidentiary matter, are impertinent, immaterial and redundant; and as a result of their inclusion in it, the allegations of the Petition are not simple, concise, and direct, and fail to state a cause of action with sufficient definiteness to permit Respondent properly to plead thereto. For these reasons, the two exhibits described, and all references to or discussions of them, should be stricken from the pleadings.

II.

Paragraphs (c), (d), (e), (f), (g), (h), (i), and (j) of the "Supplement and Amendment to Petition * * *" contain allegations evidentiary in character; they and each of them contain matter which is impertinent, immaterial and redundant; and as a result of their inclusion in it, the allegations of the Petition are not simple, concise, and direct, and do not state a cause of action with sufficient

definiteness to permit Respondent properly to plead thereto. For these reasons, all the said paragraphs should be stricken from the pleadings.

III.

Paragraphs III, IV, V, VI, and VII of the Petition as originally filed contain allegations evidentiary in nature; they, and each of them, contain matter which is impertinent, immaterial and redundant; and as a result of their inclusion in it the allegations of the Petition are not simple, concise, and direct, and do not state a cause of action with sufficient definiteness to permit Respondent properly to plead thereto. For these reasons, all of the said paragraphs should be stricken from the pleadings.

IV.

By reason of the fact that the objectionable matter referred to in paragraphs I through III herein is inextricably confused and intermingled with the allegations of essential fact in the Petition and Supplement and Amendment thereto, the Petition as originally filed and the Supplement and Amendment thereto are themselves rendered impertinent, immaterial and redundant, and fail to meet the required standards: that they be simple, concise, and direct. For these reasons, the Petition as originally filed and the Supplement and Amendment thereto

should be, and Respondent moves that they be, stricken.

Respectfully submitted,

/s/ FRANK J. HENNESSY,
U. S. Attorney,
Attorney for Respondent.

Receipt of copy acknowledged.

[Endorsed]: Filed April 15, 1946.

In the District Court of the United States for the Northern District of California, Southern Division

No. 25,296-R

TADAYASU ABO, et al.,

Plaintiffs,

vs.

IVAN WILLIAMS, as Officer in Charge, et al.,

Defendants.

ORDER

Defendants' motion to strike

(1) Exhibit 2 attached to the Supplement and Amendment to Complaint,

(2) Paragraphs (c), (d), (e), (f), (h), (i), and (j) of the Supplement and Amendment to Complaint and paragraphs III, IV, V, VI, VII and VIII of the first cause of action in the original complaint is Granted.

(3) Defendants' motion to dismiss the original complaint and the Supplement and Amendment thereto is Granted with 20 days within which to amend.

/s/ A. F. ST. SURE,
U. S. District Judge.

Dated: July 10, 1946.

[Endorsed]: Filed July 11, 1946.

In the Southern Division of the United States District Court for the Northern District of California

(No. 25296-S) Consolidated No. 25294

In the Matter of the Application for a Writ of Habeas Corpus by TADAYASU ABO, et al., etc.,

Applicants,

and

TADAYASU ABO, et al., etc.,

Petitioners,

vs.

IVAN WILLIAMS, as the Officer in Charge, etc.,

Respondent.

AMENDED PETITION FOR WRIT OF HABEAS CORPUS

To the Honorable, the Southern Division of the United States District Court for the Northern District of California:

The amended petition of each of the petitioners above-named for a writ of habeas corpus respectfully shows:

I.

Each petitioner is authorized to bring and maintain this proceeding in habeas corpus and this court has original jurisdiction of this petition by virtue of the provisions of the Habeas Corpus Acts, Title 28 USCA, sec. 451 et seq., and the provisions of Title 8 USCA, sec. 903, the petitioners jointly and severally bringing and maintaining this class proceeding under the procedure authorized in habeas corpus proceedings and the practice conforming to the practice in actions at law or suits in equity and pursuant to the provisions of Rules, 20, 23(1), 23(2), 23(3), 18(a), 18(b), 19(a), 19(b), and 81(a)(2), of the Rules of Civil Procedure for the District Courts of the United States.

II.

Each petitioner is a person of Japanese ancestry and at all times herein mentioned has been and is domiciled in the United States and has been and is a resident of the northern district of California therein; each is a native-born American citizen and national of the United States and subject to the jurisdiction thereof; each is and ever since his or her birth in this country has been and now is loyal and devoted to this country; none of them at any time whatever has been and none is an alien enemy, an alien, or a native, citizen, denizen or subject of

Japan or of any hostile or foreign nation, government or country; none at any time has been and none is a danger to the public peace or safety and none at any time has been accorded any hearing by the Government upon any charge or accusation that he or she was or is such a danger and, on the contrary, on December 17, 1944, effective as of January 2, 1945, Major General H. Pratt, U.S.A., the military commander in command of the Western Defense Command and Fourth Army, promulgated Public Proclamation No. 21 which revoked the 108 mass "civilian exclusion orders" theretofore issued by Lt. General John L. DeWitt, his predecessor in said command, and revoked the restrictions theretofore placed upon each petitioner and all persons of Japanese ancestry affected thereby; and on September 4, 1945, said General Pratt, as such military commander, promulgated Public Proclamation No. 24 which rescinded "all Individual Exclusion Orders in Effect" as of that date and removed all military prohibitions against the entry and presence of petitioners and of all other persons affected thereby within the West Coast Exclusion Zone; and each of said public proclamations was an official executive finding, judgment and decision that none of the persons affected thereby, including each petitioner herein, was hostile or dangerous to the security of the United States of America.

III.

Each petitioner, contrary to his or her will and desire, and in violation of the due process of law guaranteed by the 5th Amendment, is unlawfully and unconstitutionally interned and restrained of his or her liberty for the purpose of deportation to Japan by the respondent Ivan Williams as the Officer in Charge, United States Department of Justice, Immigration and Naturalization Service, at the Tule Lake Center, situated within the jurisdiction of this Court, at Newell, Modoc County, California, said respondent acting under the order or orders of the Attorney General of the United States; and each now is interned by the respondent and has been and is scheduled for summary removal to Japan, as aforesaid, without prior notice of such removal having been given each of them by the Attorney General, and each is informed and believes and therefore alleges that the respondent, acting under the orders of said Attorney General and under a claim of color of authority of the Alien Enemy Act, Title 50 USCA, sec. 21, and presidential Proclamation No. 2625, asserts that each, by a purported renunciation of United States nationality in 1945, became an alien enemy and subject to such internment and removal.

IV.

Solely because of his or her Japanese lineage, and unlawfully and in violation of his or her rights, liberties, privileges and immunities guaranteed him

or her as a citizen of the United States and as a person subject to its jurisdiction by the 4th, 5th, 6th, 8th, 9th, 13th and 14th Amendments of the Constitution, each petitioner, by the Government, pursuant to proclamations, commands and orders of General John L. DeWitt, once Commander of the Western Defense Command and Fourth Army, during the year 1942, first was imprisoned in the immediate vicinity of his or her then home situated within the geographical area embraced by the Western Defense Command; then was excluded therefrom and was driven into and imprisoned in a stockade called an Assembly Center; then was transported to and was confined for approximately two years in a concentration camp called a War Relocation Center and thereafter was imprisoned in the Tule Lake Center, Newell, Modoc County, California, said imprisonment having been continuous from 1942 to date, in barbed wire enclosures patrolled by armed guards while the Government trained guns upon the internees, all without a charge of crime or accusation of crime having been lodged against any of them and without any hearing having been given them by the Government on the reasons for such treatment; and the Government thereby falsely branded them as disloyal and wrongfully attempted to repudiate them as citizens; and during the early part of 1945, at and while so interned in said Tule Lake Center, each of the petitioners, many of whom are infants and a few of whom then were and now are mental incompetents,

by reason of said mistreatment signed an application for renunciation of United States nationality, as provided for by Title 8 USCA, sec. 801(i), and Sections 316.1 to 316.9, inclusive, of the Nationality Regulations; none of said applications has been approved by the Attorney General of the United States, and he has not issued an order approving any of them, as is required by Title 8, USCA, sec. 801(i) and Rule 316.7 of the Nationality Regulations, before such becomes effective, and each of said purported renunciations is void and invalid for said reason.

V.

In the early part of 1945 a hearing was accorded each petitioner upon such application for renunciation before a hearing officer designated by the then Attorney General of the United States; said hearing was wanting in each and all of the elements of a fair and impartial hearing, and in the incidents thereof, guaranteed by the 6th Amendment, and deprived each petitioner of the due process of law guaranteed each by the 5th Amendment in that each petitioner, by said officer, then and there was deprived of the benefits of independent advice and of the assistance of counsel in and about said hearing, was denied the right to be confronted by any evidence and to examine witnesses against him or her or to produce witnesses in his or her behalf, albeit none of the petitioners waived his or her rights thereto, and in that the hearing officer's recommendation to approve each application was

made, as was based all subsequent action taken thereon, upon secret information and data which was considered and given controlling weight by the hearing officer but which was withheld, concealed and kept secret from each petitioner, as provided by the provisions of Section 316.6 of the said Nationality Regulations; and at the time and at all times herein mentioned said Center was patrolled by armed guards and the Government trained guns upon said Center and upon the internees there confined;

The signing of said applications and the hearing held thereon, as aforesaid, was designed by the Government of the United States to cause and result in the detention and deportation of each signer to Japan and of the removal of members of his or her family to Japan and, consequently, to result in their continued detention for an indefinite period of time which was to be followed by a mass banishment of persons of Japanese descent from the United States, which design and purpose at all times heretofore was withheld and kept secret from the petitioners.

VI.

The said provisions of Title 8 USCA, sec. 801(i), and Sections 316.1 to 316.9, inclusive, of the said Nationality Regulations, and each of said provisions, and each of the aforesaid applications for renunciation executed thereunder and the aforesaid purported renunciations of U. S. nationality by each petitioner, and the provisions of Title 50

USCA, secs. 21 and 22, are, and each of them is, unconstitutional, void and invalid on its face and also as applied to each petitioner for each of the following reasons, to-wit, (1) for invading the right of each to be secure in his person, house, papers, and effects against unreasonable searches and seizures guaranteed by the 4th Amendment; (2) for depriving each of his liberty and property without due process of law guaranteed by the 5th Amendment; (3) for holding each for an unspecified "infamous crime" without a presentment or indictment of a grand jury in violation of the 5th Amendment; (4) for depriving each of his right to a speedy, public, fair and impartial trial and its incidents guaranteed by the 6th Amendment; (5) for inflicting on each a cruel and unusual punishment in violation of the 8th Amendment; (6) for denying and disparaging rights vested in each and retained by the people, in violation of the 9th Amendment; (7) for subjecting each to slavery and involuntary servitude for punishment not for crime upon which convicted but because of type of lineage, in violation of the 13th Amendment; (8) for depriving each of United States citizenship and State citizenship conferred upon each by reason of his birth in the United States by the 14th Amendment, in violation of the 5th and 14th Amendments; (9) for denying and abridging the right of each as a citizen to vote on account of his or her race, color or previous condition of servitude, in violation of the 15th Amendment; (10) for being repugnant to the pro-

visions of Sec. 9 of Art. I of the Constitution prohibiting bills of attainder and ex post facto laws; (11) for being contrary to the common defense and general welfare clauses of Sec. 8 of Art. I of the Constitution; (12) for being uncertain and for containing an unconstitutional delegation of legislative power to the Attorney General, in violation of the provisions of Sec. 1, of Art. I of the Constitution; (13) for containing an unconstitutional delegation of judicial power to the Attorney General, in violation of the provisions of Sec. 1 of Art. III of the Constitution; (14) for being contrary to the provisions of Sec. 3 of Art. III of the Constitution defining treason as consisting of levying war against the United States, or in adhering to their enemies, giving them aid and comfort, and forbidding the same; (15) for being contrary to the provisions of Sec. 3 of Art. III of the Constitution prohibiting the working of corruption of the blood or forfeiture for the constructive treason of the remote ancestors of each; (16) for being contrary to the provisions of Subdivision 2 of Art. VI of the Constitution making the Constitution and the 14th Amendment conferring and safeguarding citizenship by birth on each the supreme law of the land; (17) and for depriving each petitioner of each and all of his aforesaid rights, liberties, privileges, immunities and his implied rights of national and State citizenship as a citizen of the United States and as a person subject to its jurisdiction, in violation of the due process clause of the 5th Amendment; and the

aforesaid imprisonment, internment, duress in which each petitioner has been and is held by the Government, and his or her scheduled removal to Japan by the Government, as aforesaid, are, and each of said things is unconstitutional, void and invalid for each and all of the aforesaid reasons.

VII.

The signing of the renunciation application by each petitioner was neither under oath nor real nor free nor voluntary but was caused by and was the result of the duress in which each then and there was held by the U. S. Government and the concurrent duress, menace, coercion, fraud, undue influence and intimidation under which each then and there was held and subjected to by the groups and individuals, as hereinafter set forth.

VIII.

Commencing with their unlawful imprisonment in the vicinity of their homes, as aforesaid, and continuously since then to date, the United States Government, acting by and through the War Relocation Authority, a federal agency, and its agents, servants and employees, and respondent, as the jailor, custodian and guardian of petitioners, its wards, in violation of the due process of law guaranteed each petitioner by the 5th Amendment and in violation of the provisions guaranteed each of them by the 4th, 5th, 6th, 8th, 9th, 13th and 14th Amendments, has unlawfully discriminated against the petitioners and each of them and has unlaw-

fully imprisoned them and members of their immediate families and fraudulently has made and rendered and renders said imprisonment unjustly and unnecessarily prolonged, harassing and oppressive in the following respects, among others, to-wit:

(a) Shortly following their evacuation, as aforesaid, it demanded of each evacuee a false admission of prior allegiance to Japan and, upon the refusal of any to make such an admission, it incarcerated such person in said Tule Lake Center where it destined such person for detention for an indefinite period of time and for final deportation to Japan; ever since the early part of 1942, it has falsely branded each petitioner as disloyal and hostile to the United States and has and does wrongfully attempt to repudiate them as citizens simply because of their Japanese ancestry, and said mistreatment engendered hostility to them throughout the nation and created in them a belief and great fear of being relocated in this country where their lives and well-being would be endangered by reason of the existence of said hostility to them; it has continuously deprived petitioners and each of them of all of their rights of national and state citizenship; it has failed and refused to accord them or any of them a hearing on the reasons for said imprisonment and treatment; it has regarded, classed and treated each and all of them as being disloyal and as being alien enemies, in 1942 classifying all of them who were eligible for military service as "4-C" under the Selective Training and Service

Act of 1940, including those among them who were honorably discharged veterans of this war and those who were and are in the enlisted reserve; in 1942 it denied all of them the right to perform military service for this nation as well as to do work of national importance, exacted their fingerprints from them, photographed them for identification purposes as though they were alien enemies and, by reason of said mistreatment, led them to believe and fear they would be deported to Japan and that if they did not first relinquish U. S. nationality they would, upon arrival in Japan, be mistreated as being persons hostile to Japan; and

(b) At said Tule Lake Center from on or about October 1, 1945, to on or about March 20, 1946, on at least twenty (20) occasions, the said War Relocation Authority interfered with the confidential privileged communication relationship existing between petitioners and their counsel herein and denied them their right to counsel by making and publishing recordings of long distance telephone conversations had between petitioners in said Center and their counsel in San Francisco; prior to the time of the aforesaid renunciation hearings the U. S. Government, through the War Relocation Authority, set up within the limits of said Center, and thereafter until November, 1945, continuously maintained a special jail termed "The Stockade" wherein it incarcerated innocent citizens detained in said Center, without accusation of crime or wrongdoing on their part and without hearings on

the cause therefor at any time having been afforded them and without allowing them the assistance of counsel and there held hundreds of them incommunicado for various periods of time ranging from a few hours to 360 days, all without cause; said practices were designed to instil and they did instil in the petitioners and prisoner-evacuees confined to said Center a great fear of the governmental power wielded over them and said practices were parts and phases of the duress in which the Government held the petitioners and all residents of said Center; and

(c) As part of the Government's systematic program of duress in which it held the petitioners and all residents in said Center the said War Relocation Authority, in violation of the 13th Amendment, established and maintained for the past four years a slavery and peonage system at said Center, in manner as follows, to-wit: it organized therein a club known as the "Recreation Club" for the private and personal benefit of the Caucasian employees of said War Relocation Authority to whom membership therein was restricted and through such an instrumentality deliberately exploited hundreds of persons of Japanese ancestry confined to its charge; each member thereof paid to said Club the sum of $30.00 per month for which the said Club hired out to such member an internee to serve such member in private employment and paid such internee therefor either the sum of $16.00 or $19.00 per month, depending upon the character of the

service, for labor performed on a forty (40) hour week basis, the remainder of the $30.00 being retained by said Club with exception of $3.75 which the War Relocation Authority required the Club to pay such slave as a clothing allowance; and said practice was designed to instil and did instil in the petitioners and internees there confined a great fear of the governmental power exercised over them and was a part and phase of the aforesaid duress in which they were held; and

(d) Following the commencement of this proceeding, during January and February, 1946, the Attorney General of the United States summarily ordered each petitioner and renunciant to show cause why they should not be deported by him to Japan and each of them was subjected to such a purported hearing or examination conducted by hearing officers appointed by him; each requested of such hearing officer the right and opportunity to the assistance of counsel and the right to be represented by counsel thereat but each, by him, was denied said rights and was denied reasonable time and opportunity to prepare therefor and to obtain witnesses and evidence in his or her behalf; neither petitioners nor witnesses were sworn; the hearings were unduly brief; no adverse evidence was offered against any of them and none was adduced showing or tending to show that any of them was an alien enemy or hostile or dangerous to the security of this country; at said hearings, as also on the review by the Attorney General of the recommenda-

tions made by such hearing officers following the conclusion of such examinations, said officers and the Attorney General, in refusing to recommend the now detained petitioners for release from detention and to release them, considered and gave controlling weight to information contained in files and dossiers maintained by said officer, the nature and contents of which were kept secret from petitioners, and based such recommendations and refusals upon such secret information and upon mere whim and caprice; said hearings were arbitrary, unreasonable and oppressive in character and were wholly unfair for said reasons and deprived each of them of the due process of law guaranteed each of them by the 5th Amendment and constitute a part and phase of the duress in which each petitioner has been and is detained by the Government; and

(e) Ever since the conclusion of said hearings the Attorney General, over the protests of petitioners and their counsel, and in violation of the provisions of the 4th Amendment and the due process of law guaranteed by the 5th Amendment, has denied and denies petitioners their right to counsel and their right of confidential privileged communications by subjecting petitioners' mail to their counsel and their counsel's letters to them, to censorship, and by posting censors and eavesdroppers to attend and listen to the consultations and conferences petitioners have held with their counsel in connection with this proceeding, and said inter-

ference with and denial of said rights is a part and phase of the duress in which the Government has held and holds petitioners; and

(f) While holding the petitioners in duress, as aforesaid, the Government, through its agents, servants and employees and the War Relocation Authority, further rendered said imprisonment unjustly and unnecessarily harassing and oppressive by fostering, sponsoring and allowing terroristic groups to operate in said Center and to subject the petitioners to the duress, menace, fraud, undue influence, coercion and intimidation practiced upon them by said groups which concurrently caused the said renunciations, as hereinafter alleged;

(g) Since the commencement of this proceeding, the Government has made it a practice to permit aliens to leave said Center and return to their former homes in this country while it holds their children who have signed renunciation applications for involuntary removal to Japan and compels the relocated members of their families, including veterans of this war, to the choice of an involuntary exile from the United States to Japan to accompany them to preserve their family unity or to remain here separated from them;

(h) Neither the Government nor any of its agents, servants or employees has subjected any similarly situated U. S. citizens of other ancestry or extraction to the aforesaid duress or any duress.

IX.

By reason whereof the petitioners were led by the Government, to believe and fear and they did believe and fear and had good cause to believe and fear that the Government of the United States classed, treated and viewed them as alien enemies and that it had repudiated their citizenship and that it desired and intended to deprive and had deprived them of citizenship and of their right to defend this country and that it intended to imprison them for an indefinite period of time and finally to remove and banish them and their families and all like descended persons from the United States to Japan, and that the signing of renunciation applications was a matter commanded by the Government, compliance with which was prerequisite to their right and that of their families to remain united and in the protective security of said Center pending such banishment, and that relinquishment of U. S. nationality by them was necessary to save them from mistreatment in Japan following such banishment, and that it was necessary to save themselves and their families from physical harm and violence which was reigning in civilian communities hostile to persons of Japanese ancestry and which would have been unleashed against them were they or any of them to be restored to civilian life in this country while the war was raging; and

By reason of said governmental duress, concurrently with the duress, fraud, menace, coercion,

undue influence and intimidation practiced upon each petitioner and members of his or her family by organized terroristic groups, as hereinafter set forth, each petitioner was kept in a constant state of fear, fright, mass hysteria and terror and was deprived of freedom of will and choice in and about the signing of his or her said application for renunciation and was compelled by the Government against his or her will and desire and without his or her consent to sign a fictitious renunciation of citizenship, as aforesaid.

X.

In the latter part of 1944, at said Center, the War Relocation Authority, a federal executive agency to the charge of which all the evacuees in said Center, including each petitioner herein, were committed, adopted a policy of permitting and permitted organized groups of internees at said Center to operate Japanese language schools and to engage in and promote Japanese cultural activities therein and, pursuant to said policy, sponsored and fostered said educational and cultural movement; said groups so sponsored and fostered, then and thereafter, until all the renunciation applications herein mentioned had been executed, continuously operated therein with the full knowledge and consent of said agency and under the eyes and surveillance of its officers, agents and employees; said movement developed into an innocuous appearing "innocents front" organization which thereafter, by its organizers and leaders, all of whom were fanatical aliens

of Japanese nativity, was converted into a pro-Japanese nationalistic movement; at the time of said renunciation hearings it had developed into and was an active terroristic movement; said groups had as their object and purpose the compelling of each petitioner and internee in said Center to renounce U. S. nationality and to be removed to Japan; the real nature, purposes and bent of said movement was concealed from the petitioners and its inactive members who had joined it when it appeared to them to be a simple educational and cultural movement, as aforesaid, and when its true nature and purpose were not discernible; when the true nature and purposes thereof became apparent many members thereof did not dare to protest the course thereof or openly to resign therefrom because of the coercion of said groups and for fear their own personal security and the security of members of their families thereby would be endangered, and many persons confined to said Center, including a number of the petitioners herein, were compelled to join the same as nominal inactive members for like security reasons.

XI.

Said groups engaged in a generalized campaign of lawlessness and terror in said Center prior to and during the time of said renunciation hearings and thereafter and, during said period of time, maintained a veritable rule and reign of terror over petitioners, their families and internees resid-

ing in said Center and, to accomplish their aforesaid object and purpose, among other things, they preached and practiced sedition; they engaged in engendering, developing and promoting loyalty to the cause of Japan, which cause they notoriously espoused, by initiating Japanese-type military drill, riots, mass exercises, bugling, wearing Japanese insignia, emperor worship ceremonials and other purely Japanese nationalistic activities designed to instil in the internees a devotion to the militaristic regime in Japan; they endeavored by word and action, to proselyte to the cause of the enemy the petitioners, their families and other loyal internees there residing; they threatened the petitioners and internees that if any of them talked to, communicated with or associated with any of the Caucasians in and about said Center those so doing would be assaulted by gangsters and hoodlums commanded by them; they maintained an elaborate system of black-listing and espionage over the petitioners and internees in said Center; they threatened petitioners that they and their families were classed, treated and regarded by the United States Government as alien enemies and that it had scheduled them and their families for deportation to Japan and that upon arrival in Japan they would be treated as being persons hostile to Japan unless they first had relinquished U. S. nationality; they threatened the petitioners, as did governmental announcements publicly made just prior to the time said hearings were held in

1945, that the deportation of each petitioner and that of alien members of his or her family, on an exchange ship, was imminent and impending and that each would be deported in any event, and that if he or she failed to sign an application for renunciation the security of each and that of members of his or her family, upon arrival in Japan, would be endangered because the leaders of said groups would report them to the Japanese Government as being dangerous alien enemies to Japan and as being American spies and that they there would be seized and punished as such; they threatened them that if any of them succeeded in being relocated in civil walks of life in this country their lives would be placed in jeopardy because of the community prejudice and hostility there reigning against them because of their type of ancestry and informed them that there had been innumerable acts of physical violence perpetrated against persons of like ancestry who had been relocated in civilian communities where hostility to persons of Japanese ancestry was rampant; they sent in spurious letters to the Department of Justice requesting renunciation applications be forwarded to internees whose names they signed to such requests and then informed the receivers of such forms that the government required their renunciations; they maintained and operated schools in said Center to coach and did coach the petitioner victims of their deceit and coercion into giving false answers to the questions the hearing officers were to propound to

them at the renunciation hearings; by threats and by preying on fear of the circumstances in which all internees were held they induced parents to exert pressure on their interned children to join the groups to participate in their demonstrations and to execute renunciation applications; they threatened, coerced and intimidated petitioners and all other renunciants into signing such renunciation applications by each and all of the aforesaid means and by means of threats, displays, exhibitions and overt demonstrations of force and violence and by assaults on internees and by threats against their lives and by threats of inflicting great physical injury upon them and members of their families in the event he or she failed to obey their mandates to sign such renunciation applications.

XII.

The United States Government, by and through the Secretary of the Interior as the head of the War Relocation Authority to whose charge petitioners and all internees in said Tule Lake Center were committed by the Chief Executive at the time of said renunciations, through the Hon. Abe Fortas, as the Under Secretary of the Interior, on or about August 6, 1945, proclaimed, made and published in the regular course of his official duties, concerning facts of which he had official cognizance, an official executive finding of fact, judgment, decision and report in writing, that it was primarily due to the duress, fraud, menace, coercion, undue influence and

intimidation practiced upon each petitioner and all renunciants in said Center by the aforesaid groups that caused the renunciation applications to be signed by each of the petitioners and all other renunciants therein; and to supply substantial allegations of fact essential to this cause of action each petitioner alleges that said official executive finding of fact, judgment, decision and report is as follows:

"When Tule Lake became a segregation center, WRA adopted a policy of permitting evacuees to operate Japanese language schools and engage in Japanese cultural activities, in recognition of the fact that many of the residents sincerely desired repatriation to Japan and that children should be given an opportunity to become acquainted with Japanese culture. Unfortunately this policy was utilized as an entering wedge by a number of strongly pro-Japanese evacuees for the formation of virulently pro-Japanese nationalistic organizations. These evacuees were motivated chiefly by the desire to attain standing in the eyes of the Japanese government and obtain positions of leadership in the colony. To this end they instituted Japanese-type military drill, mass exercises, bugling, wearing of Japanese insignia, emperor worship ceremonials, pro-Japanese demonstrations, and other purely Japanese nationalistic activities designed not to serve any cultural purposes but to instil in the Tule Lake people a fanatical devotion to the principles of the miltiaristic regime in Japan. By preying on fear of Selective Service they induced parents to exert pressure on their children to join

the organizations. In addition they resorted to intimidation, threats of violence and actual violence in coercing residents to join the organizations and participate in their demonstrations. It was primarily due to the pressure of these organizations that over 80 per cent of the citizens eligible to do so applied for renunciation of citizenship this past winter. When Department of Justice representatives arrived at Tule Lake to conduct hearings on applications, the organizations stepped up their demonstrations and their pressures on the applicants."

XIII.

By reason of said rule of terror reigning over them and the duress in which each was held each petitioner believed in and feared said threats of said terroristic groups would be carried into execution against him or her and members of their families and that he or she and his or her family would be exposed to physical violence and probable loss of life if he or she failed to heed said threats and to obey the mandates of said pressure groups and thereby was compelled to sign and did sign said renunciation application against his or her will and desire and without his or her consent.

XIV.

At all times during said rule of terror imposed upon the petitioners and internees in said Center the United States Government, and its agents, servants and employees in charge of said Center, were aware of and knew of the purposes and

activities of said pressure groups and of the duress, menace, fraud, coercion, undue influence and intimidation said groups practiced upon and against petitioners, members of their families and other internees there confined, but condoned the same and was responsible for, and actually aided and abetted the same and was accessory thereto by virtue of the facts of having sponsored and fostered the activities of the aforesaid groups, by failing to prevent and to stop the same, by failing to arrest and prosecute the leaders and active members thereof, by failing to isolate and segregate such criminal elements from the petitioners and other loyal internees, by failing to take precautionary measures to prevent such rule of terror, and by failing to protect petitioners against said lawlessness and from harm from said sources, and to safeguard their rights as American citizens.

After the aforesaid renunciation hearings had been concluded the U. S. Government seized all the organizers, leaders and active members of the aforesaid pressure groups and forcibly transported them to other internment camps from whence all of them thereafter, since the filing of this proceeding, were voluntarily repatriated to Japan by the Government; the duress, menace, fraud, coercion and undue influence to which said groups subjected petitioners did not abate until the last of said groups had been transported, as aforesaid, and did not cease until the last of said group had been repatriated to Japan.

XV.

A total of 5,371 native born American citizens of 18 years and upward, included in which number is each of the petitioners, executed applications for renunciation of United States nationality at said Center; each of them did so as the direct and proximate result of and by virtue of the duress in which they then and there and for a long period of time prior thereto had been held by the U. S. Government, as aforesaid, and by virtue of the concurrent duress, menace, fraud, undue influence and coercion of the aforesaid terroristic pressure groups operating therein, as aforesaid, and against which the United States Government, its agents, servants and employees, and particularly the said War Relocation Authority, gave the petitioners and said renunciants no protection, as hereinabove alleged.

XVI.

That none of said renunciations were real, free or voluntary on the part of any of the petitioners, but each was caused by and was the proximate result of fear, fright, torment and terror induced in each petitioner's mind by virtue of the duress, menace, fraud and undue influence to which each was subjected by the groups and individuals, and the duress in which each was held by the Government, as aforesaid, all of which operated to deprive and did deprive each petitioner of freedom of choice, will and desire in and about the signing of

such application for renunciation, and each of said renunciations was and is false, fictitious, null and void by reason thereof.

XVII.

Prior to the time of the filing of this petition each petitioner, twice in writing, notified the Attorney General of the United States, his agents and representatives, and the respondent as one of his agents, of the aforesaid duress which caused him or her to sign such renunciation application and that he or she rescinded, revoked and cancelled his or her said application for renunciation and purported renunciation of United States nationality for the reasons that the same was signed under duress, menace, fraud, coercion, undue influence and mistakes of fact and of law, as aforesaid, and informed him and them of the grounds and reasons on which said rescission and revocation was based and made but said Attorney General failed and still does fail to accept said rescission and revocation; in each of said notifications each petitioner demanded of him and of respondent, that he or she be discharged from said internment, detention and unlawful restraint upon his or her liberty, but the Attorney General of the United States, his agents and representatives, and the respondent, acting under his orders, failed and refused and do still fail and refuse to release each and all of said petitioners from said internment, duress, restraint and threatened deportation to Japan.

XVIII.

The written orders, records and documents pertaining to each of the petitioners in connection with the matters and things set forth in this petition are in the exclusive possession, custody and control of the respondent and the Department of Justice; neither the petitioners nor any of them know the nature or contents thereof and none of them has had and none now has access thereto and the same never have been made available to petitioners or any of them or to their counsel and the same are now withheld from each of them and their counsel by the respondent and said Department of Justice.

None of the petitioners is held by virtue of any complaint, indictment, presentment, warrant, or quarantine law, rule, regulations, arrest or order, except as hereinabove specifically set forth; no prior application for a writ of habeas corpus related to the internment, detention or restraint complained of herein has been made by petitioners or by any of them in this or any other court.

Wherefore, each petitioner prays that a Writ of Habeas Corpus be awarded and issue herein directed to the said Ivan Williams as the Officer in Charge, United States Department of Justice, Immigration and Naturalization Service, at the Tule Lake Center, Newell, Modoc County, California, commanding him to have the body of each petitioner before the above-entitled Court at a time to be specified therein, to do and receive what then and there shall be commanded by the Court concerning

each petitioner, together with the time and cause of the detention of each, and said Writ; that each petitioner be restored to his or her liberty; that the Court find and adjudge that his or her application for renunciation of United States nationality was and is null, void and of no effect, and that any approval thereof made by the Attorney General of the United States or order issued by him approving the same, if any ever was made, was and is null, void and of no effect; that the Court find and adjudge that each petitioner is not an alien enemy and that each is a national and citizen of the United States; that the Court find and adjudge that his or her internment, detention and duress in which held was and is void and illegal; that any and all orders for his or her involuntary removal or deportation to Japan or to any foreign country or elsewhere be vacated and cancelled; that each have his or her costs of suit; and each petitioner prays for such other and further relief as may be just.

/s/ WAYNE M. COLLINS,
Attorney for Petitioners.

United States of America,
State of California,
City and County of San Francisco—ss.

Masaru Yamaichi, being first duly sworn, deposes and says: That he is one of the petitioners in the foregoing amended petition named; that he makes this affidavit and verification thereof on his own

behalf as such a petitioner and on behalf of each and all the petitioners therein, each of whom has authorized him so to do, and because it is impracticable to have the same verified by each of them by reason of their detention, their large number and the long period of time which would be consumed to have such done and because of the shortness of time due to the threatened and imminent involuntary removal of petitioners, as alleged therein; that he personally knows the facts set forth therein which apply equally to each and all of said petitioners; that he has read the foregoing amended petition and knows the contents thereof; that the same is true of his own knowledge except as to the matters therein stated upon information or belief and as to such that he believes it to be true.

/s/ MASARU YAMAICHI.

Subscribed and Sworn to before me this 15th day of August, 1946.

[Seal] /s/ JANE M. DAUGHERTY,
Notary Public in and for the County of San Francisco, State of California.

My commission expires Sept. 24, 1949.

Service and receipt of copy acknowledged.

[Endorsed]: Filed Aug. 15, 1946.

[Title of District Court and Cause.]

MOTION TO STRIKE

Respondent Ivan Williams moves to strike from the amended petition for writ of habeas corpus filed herein certain redundant, immaterial and impertinent matters identified below, pursuant to Rules 8(e) and 12(f) of the Federal Rules of Civil Procedure:

All of the matters and allegations set forth in Paragraph XII of said amended petition for writ of habeas corpus, beginning with line 4, page 17, to and including line 16, page 18; on the ground that said allegations and matters comprise evidentiary matter; are impertinent, immaterial and redundant; and, as a result of their inclusion in it, the allegations of said amended petition for writ of habeas corpus are not simple, concise, and direct, as required by said Federal Rules.

That said matter constituted Exhibit No. 2, appended to the "Supplement and Amendment to Petition for Writ of Habeas Corpus" filed herein and ordered stricken by this Court on July 10, 1946.

For these reasons, said Paragraph XII, and the whole thereof, of said amended petition for writ of habeas corpus should be, and respondent Ivan Williams moves that same be, stricken.

Respectfully submitted,

/s/ FRANK J. HENNESSY,

U. S. Attorney.

Attorney for Respondent

Ivan Williams.

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF FOREGOING MOTION TO STRIKE

Respondent Ivan Williams refers to and hereby adopts the points and authorities in support of motion to strike, and memorandum supplemental to points and authorities in support of motion to strike filed by respondent in support of his motion to strike from the petition for writ of habeas corpus and amendment and supplement thereto, which motion to strike was granted by the Court on July 10, 1946.

The order of the Court of July 10, 1946, granting the motion to strike, has become the law of the case and thus requires that the matter contained in said Paragraph XII of the amended petition for writ of habeas corpus be stricken.

Respectfully submitted,
/s/ FRANK J. HENNESSY,
U. S. Attorney.
Attorney for Respondent
Ivan Williams.

Receipt of copy acknowledged.

[Endorsed]: Filed Sept. 19, 1946.

[Title of District Court and Cause.]

RETURN

Irving F. Wixon, appearing in response to the petition for a writ of habeas corpus filed in the

above-entitled cause, respectfully shows this honorable Court:

That he is District Director of the Northern District of California for the Immigration and Naturalization Service of the Department of Justice of the United States; that in that capacity he has jurisdiction and control over all activities of the Immigration and Naturalization Service within that District; and that the custody of which petitioners complain is maintained by Respondent in his capacity as District Director for the said Service.

That the true cause of Petitioners' detention is as follows:

1. Petitioners are individuals who were born in the United States of Japanese parents and who possessed both Japanese and United States citizenship.

2. Each of petitioners voluntarily requested permission to renounce and did renounce his United States nationality by a formal written renunciation in a form prescribed by and before an officer designated by the Attorney General pursuant to the provisions of Section 401(i) of the Nationality Act of 1940, as amended, (8 U.S.C. 801(i)). Each renunciation was then approved by the Attorney General as not contrary to the interest of national defense, as required by that statute.

3. Petitioners thereupon lost their American nationality and became aliens of Japanese nationality.

4. Petitioners were then duly interned by the Attorney General as alien enemies subject to the

provisions of the Alien Enemy Act of 1798 (50 U.S.C. 21-23).

5. Petitioners are presently being held in custody pending their removal from the United States pursuant to the Alien Enemy Act, cited above, to Presidential Proclamations 2525 and 2655, and to the regulations of the Attorney General (10 F. R. 12189) promulgated thereunder. There is attached hereto and made a part hereof a copy of the order issued in the case of Hiroshi Watanabe which is similar to that outstanding in the case of each of the other petitioners who has not been released since the commencement of this action.

6. That the detention of petitioners described above is lawful and proper.

Wherefore, Respondent respectfully submits that no writ of habeas corpus should issue with respect to any of petitioners herein.

/s/ IRVING F. WIXON,

District Director Immigration and Naturalization Service.

Respondent.

September 23, 1946.

Receipt of copy acknowledged.

In the Matter of
HIROSHI WATANABE
Alien Enemy

D.J. File No.
146-54-1879
B-1-13-23

ORDER

Whereas, Hiroshi Watanabe has appeared before a duly appointed hearing officer and has made a formal written renunciation of his United States citizenship pursuant to Section 401(i) of the Nationality Act of 1940, as amended, and whereas the said renunciation of nationality has been approved by the Attorney General as not contrary to the interests of national defense; and

Whereas, the above-named renunciant is deemed to be a native, citizen, subject or denizen of Japan and has as such heretofore been interned by order of the Attorney General pursuant to the Alien Enemy Act of 1798; and

Whereas, the said alien enemy has been afforded an opportunity for a full hearing before a repatriation hearing officer on the issue of his removal from the United States pursuant to the provisions of the Alien Enemy Act of 1798 and of Presidential Proclamation 2655 (10 Fed. Reg. 8947); and

Whereas, upon consideration of all the evidence relating to this matter the above-named renunciant is deemed by the Attorney General to be an alien enemy dangerous to the public peace and safety of the United States because he has adhered to the

government of Japan or to the principles of government thereof;

Now, Therefore,

It Is Ordered that the said alien enemy depart from the United States within thirty days after service of this order upon him; and

It Is Further Ordered that, in the event the said alien enemy fails or neglects to depart from the United States within the said thirty days, the Commissioner of Immigration and Naturalization shall provide for the alien's removal to Japan.

Dated, Washington, D. C. April 1, 1946.

/s/ TOM C. CLARK,
Attorney General.

[Endorsed]: Filed Sept. 23, 1946.

[Title of District Court and Cause.]

AMENDED RETURN

Irving F. Wixon, appearing in response to the Amended Petition for a Writ of Habeas Corpus filed in the above-entitled cause, shows this Honorable Court:

I.

Respondents make no answer to the conclusions of law set forth in Paragraph I of the Amended Petition.

II.

Respondents admit that each petitioner is a person of Japanese ancestry, a native, domiciliary of

the United States, and a resident of the Northern District of California. Respondents further admit that the proclamations mentioned in Paragraph II of the Amended Petition herein were issued and were withdrawn, as stated therein. Respondents assert that each Petitioner is an alien and a citizen and subject of Japan, and that the Attorney General has made a finding of dangerousness as to each Petitioner, acting within his powers pursuant to the Alien Enemy Act of 1798 and to Presidential Proclamations 2525 and 2655 and to the Regulations issued by him thereunder (10 F. R. 12189). Respondents deny that each or any of the Petitioners is presently a citizen or national of the United States or is loyal to the United States, that the withdrawal of the Proclamations set forth in Paragraph II of the Amended Petition had the effect of a finding that Petitioners herein were not hostile or dangerous to the security of the United States of America; and deny all other allegations of Paragraph II not otherwise answered herein.

III.

Respondents admit that each of Petitioners is interned in the custody of Respondent Irving F. Wixon, acting in his capacity as District Director of the Immigration and Naturalization Service for the Northern District of California, who is, in turn, acting under the direction of Respondent Tom C. Clark, Attorney General of the United States; and that each is held under order of removal from the United States issued by said Respondent Tom C.

Clark, acting lawfully pursuant to the Alien Enemy Act of 1798 and the Presidential Proclamations and the Regulations of the Attorney General cited above; but deny all other allegations and conclusions of Paragraph III of the Amended Petition herein.

IV.

Respondents admit that all of Petitioners were excluded from the Western Defense Command area in 1942, and, at the time of their renunciation of citizenship, were detained in the War Relocation Center known as Tule Lake, at Newell, California, which was surrounded by wire and guarded; but deny the remaining allegations of Paragraph IV of the Amended Petition filed herein; and assert that the renunciation of each of Petitioners was in fact approved by the Attorney General, as required by statute and regulations; and that each of said renunciations is valid and legally effective.

V.

Respondents admit that hearings were given to each Petitioner pursuant to the requirement of the statute and regulations; but assert that said hearings were conducted fairly and in conformity with Constitutional requirements, and assert that the purpose of the hearings given was, first, to ensure that each applicant for renunciation fully understood the nature and consequences of his act and undertook them voluntarily, and, second, to ascertain, pursuant to statutory requirement, whether approval of the attempted renunciation in each case

would be not contrary to national defense; and assert that such approval was not based on any information, secret or other, except what was voluntarily disclosed to the hearing officer by the applicant in the applicant's effort to obtain approval of his renunciation. Respondents deny all other allegations of Paragraph V of the Amended Petition filed herein.

VI.

Respondents admit the allegations of Paragraph VI of the Amended Petition filed herein, except insofar as they may be taken to draw the legal conclusion that Petitioners are or were subjected to duress in relation to their renunciation, or in any other connection. The existence of such duress is denied.

VII.

Respondents deny all allegations and conclusions in Paragraph VII of the Amended Petition filed herein.

VIII.

Respondents admit subsection (h) of Paragraph VIII of the Amended Petition filed herein; and assert that neither the Government nor any of its agents, servants or employees has subjected Petitioners herein to the duress alleged, or to any duress. Respondents deny all other allegations of said Paragraph VIII, with the exception of the following: Respondents admit that Petitioners have been detained at Tule Lake, and that each of them, since his renunciation and subsequent hearing and order

by the Attorney General, has been destined for removal to Japan. Respondents admit that in various sections of the country there existed hostility to Petitioners and other persons in the Tule Lake Center during their detention, and that, in consequence, many residents of the said Center were apprehensive of being relocated during the time prior to the unconditional surrender of the Japanese Government. Respondents admit that, for some time following the declaration of war, Petitioners and other persons in relocation centers were not accepted or drafted for service in the United States armed forces; and admit that Petitioners were fingerprinted and photographed for identification. Respondents assert that at a later period numerous individuals in the said relocation centers were, in fact, accepted for service in the armed forces and were called upon to perform other important services in the national war effort. Respondents admit that, since the entry of orders of removal by the Attorney General, surveillance was maintained over communications between Petitioners and persons not confined in the Center; and admit that there was maintained within the Center a disciplinary enclosure in which persons disturbing the orderly conduct of the said Center were from time to time detained. Respondents admit that there was in said Relocation Center a club of Caucasian employees of the said Center through which the said Caucasian employees employed, on a voluntary basis, individuals detained at the Center at the rates prescribed

for remuneration of such occupants of the said Center for all labor performed therein. Respondents admit that each of Petitioners, following his renunciation, was afforded an opportunity to show cause why he should not be removed to Japan; and assert that, at the hearings provided for the purpose of permitting cause to be shown, each Petitioner was given full opportunity to present such evidence as he wished.

IX.

Respondents deny all the allegations in Paragraph IX of the Amended Petition filed herein.

X.

Respondents admit that, as alleged in Paragraph X of the Amended Petition, the War Relocation Authority permitted the organization of groups of persons within the said Center for the purpose of operating Japanese language schools and promoting Japanese cultural activities therein; and admit that some of the said organizations and the leaders thereof were adherents of the nationalistic Japanese philosophy. All other allegations of said Paragraph X of the Amended Petition are denied.

XI.

Respondents admit that the organizations referred to in Paragraph X, above, engaged in engendering, developing and promoting loyalty to the cause of Japan, initiated Japanese-type military drill, mass exercises, bugling, wearing Japanese insignia, emperor worship ceremonials and other Japanese na-

tionalistic activities designed to instill in the residents of the Center a devotion to the militaristic regime in Japan. Respondents admit that these organizations engaged in misrepresentations with respect to the purpose and effect of the deportation and renunciation laws and the *and the* programs initiated by the Government thereunder, and engaged in a propaganda campaign the purpose of which was to persuade persons within the Relocation Center to renounce their American citizenship and assert their loyalty to the Japanese Government. Respondents admit that certain alien parents within the Relocation Center, both as a result of the activities of these organizations and for other reasons, attempted to persuade and in some instances did persuade their citizen children to renounce their citizenship. All other allegations of Paragraph XI of the Amended Petition are denied.

XII.

This Court's decision, that the letter set forth in Paragraph XII of the Amended Petition herein should be stricken as being improperly pleaded, renders unnecessary any response to said Paragraph XII.

XIII.

Respondents deny all the allegations contained in Paragraph XIII of the Amended Petition filed herein.

XIV.

Respondents deny all the allegations of Paragraph XIV of the Amended Petition filed herein,

and specifically deny the existence of duress, menace, fraud, coercion and undue influence on the part of the Government or otherwise at any time.

XV.

Respondents admit that 5,731 United States born individuals executed applications for renunciation of citizenship, among them Petitioners, but deny the other allegations of Paragraph XV of the Amended Petition.

XVI.

Respondents deny all the allegations contained in Paragraph XVI of the Amended Petition filed herein.

XVII.

Respondents admit that Petitioners made the allegations set forth in Paragraph XVII of the Amended Petition, and attempted to revoke their renunciations as there stated; but assert that the failure and refusal to accept the attempted revocation there alleged was necessitated by law, there being no power in the Attorney General to confer citizenship on persons who have lost it. Respondents admit, also, refusal to release Petitioners and assert that they will be removed to Japan pursuant to the orders of the Attorney General legally issued in their cases, as set forth above.

XVIII.

Respondents admit the allegations of Paragraph XVIII of the Amended Petition, with the exception that Petitioners or their counsel have access to the

orders issued in the respective cases upon request, and that certain other documents may, within the discretion of authorized officials, be made available upon proper request.

XIX.

And affirmatively answering the allegations of the Amended Petition herein, Respondents assert:

First, that renunciations were approved by the Attorney General only after the following procedural steps:

1. A written application for permission to renounce, signed by the prospective renunciant, was required to be filed in each case.

2. The submission of a formal statement of renunciation, upon which a hearing was held by an officer specially designated by the Attorney General prior to its approval.

3. Approval by the Attorney General based upon the report and recommendation of such hearing officer.

Second, at these hearings each renunciant appeared in person before the designated hearing officer in a private interview at which no other persons of Japanese ancestry were permitted to be present, except in cases where an interpreter was required.

Third, that it was the purpose of these hearings to make certain that the prospective renunciant fully understood the consequences of his act and undertook them voluntarily. To this end the officers were instructed to and did explain in full that

citizenship once lost could not be regained, and interrogated each prospective renunciant as to his reasons for wishing to renounce, explaining, in cases where such explanation seemed appropriate, that renunciation was not necessary in order to preserve family unity or in order to obtain an opportunity to depart for Japan.

Fourth, that a very large number of the Petitioners herein were, at the time of renunciation, themselves members of the nationalistic Japanese organizations described in the above Amended Petition and Amended Return thereto. That a very large number of Petitioners herein affirmatively asserted their belief in the principles and purposes of the said nationalistic organizations before the renunciation hearing officer at the hearing held under the conditions described above. That a very large number of Petitioners when appearing at such hearing openly avowed hostility to the United States and asserted their hope and desire for a Japanese victory. That a considerable number of Petitioners appeared before the hearing officers wearing garments comprising the uniform of the said nationalistic organizations, and performed parts of the ritual before the hearing officer.

Fifth, that, as indicated in the description of the procedures above, each of the Petitioners has individually filed a petition to be permitted to renounce, and that a not inconsiderable number of them wrote twice or more to the Attorney General complaining that their wishes in this respect were not granted more expeditiously.

Sixth, that a large proportion of Petitioners expressed the desire to leave the United States and reside permanently in Japan as a reason for their intention to renounce United States nationality.

Seventh, that a very large proportion of Petitioners herein made no attempt to retract their said renunciations until after the Atom Bomb had fallen on Japan and they had been apprised of the consequent surrender.

Eighth, accordingly, Respondents assert that, contrary to the allegations of Petitioners, Petitioners were not in fact coerced or led by any form of duress to renounce their citizenship as aforesaid, but in truth and in fact were voluntary and active participants in the movement for renunciation, and themselves renounced voluntarily and with full knowledge of the nature and consequences of their act.

Wherefore, Respondent respectfully submits that no Writ of Habeas Corpus should issue herein.

/s/ IRVING F. WIXON,

District Director Immigration and Naturalization Service,

Respondent.

October 4th, 1946.

Receipt of copy acknowledged.

[Endorsed]: Filed Oct. 4, 1946.

[Title of District Court and Cause.]

MOTION TO STRIKE

Each petitioner moves the court to strike the following matter from the amended return to the order to show cause herein, as follows:

1. From paragraph II thereof, the assertion on page 2, line 31, commencing with the words "Respondents assert" down to and including the words and figures "thereunder (10 F.R. 12189)" on line 4 of page 2, on the grounds the said matter is in irreconcilable conflict and inconsistent with the admission of the nativity, residence, domicile and presence in the United States of each petitioner, is an erroneous opinion and conclusion of law, is irrelevant and is sham, frivolous and evasive.

2. From paragraph II thereof, the concluding sentence thereof commencing with the words "Respondents deny" on line 4 of page 2, on the grounds said matter constitutes mere opinions and conclusions of law, is negative pregnant, and is sham, frivolous and evasive.

3. From paragraph III thereof, the phrase commencing with the words "acting lawfully" on line 19 of page 2 down to and including the words "cited above" on line 21 of said page, on the ground the same is mere opinion and conclusion of law.

4. From paragraph IV thereof, the matter commencing with the words "as required by statute" on line 2 of page 3 down to and including the word

"effective" on line 4 of said page, on the ground it contains mere opinions and conclusions of law.

5. From paragraph VIII thereof, the matter commencing with the words "and assert that neither" on line 3 of page 4 down to and including the words "or to any duress" on line 5 of said page, on the ground the same is in conflict and inconsistent with matters of fact of which the court has and takes judicial cognizance.

6. The whole of paragraph XII thereof, for being an erroneous opinion and conclusion of law and as being evasive.

7. From paragraph XVII thereof, the matter commencing with the words "but assert that the failure" on line 31 of page 6 down to and including the words "on persons who have lost it" on line 2 of page 7, on the ground the same is a mere opinion and conclusion of law, and is immaterial, irrelevant and evasive.

8. The whole of paragraph XIX thereof, except subsection "Second" on the grounds it does not constitute either a special or an affirmative defense, contains mere opinions and conclusions of law, relates to evidentiary matter, is redundant, immaterial, irrelevant, sham and evasive.

9. The whole of the following paragraphs thereof, to-wit, paragraphs I, III, IV, V, VI, VII, VIII, IX, X, XI, XII, XIII, XIV, XV, XVI, XVII, XVIII, XIX, and the whole of said amended return on the grounds the denials and admissions therein do not explicitly traverse the material allega-

tions of the amended petition; that the denials therein involve conclusions of law; that the denials therein are of matters of fact of which the respondents are presumed to have and have actual knowledge and, consequently, cannot be heard to deny; that the matters and things alleged in the amended petition are matters of fact of which the court has judicial knowledge or takes judicial cognizance and, in consequence, are matters of fact that cannot be denied by respondents; that the admissions in said amended return are inconsistent with the denials therein; that the denials therein are inconsistent with the admissions therein; that the denials therein are inconsistent with facts of which the court takes judicial cognizance; that the denials are vague, indefinite, uncertain and evasive; that the admissions therein are indefinite, uncertain and evasive; that the denials and admissions and assertions therein and the whole of said amended return are sham, frivolous and evasive.

This motion is made upon the amended petition for the writ, the order to show cause, the amended return to the order to show cause, this motion and notice of this motion.

Wherefore, each petitioner demands this motion to strike be granted; that leave to amend the amended return to the order to show cause be denied; that the writ be awarded and issue as

demanded by petitioners in their amended petition for the writ herein.

Dated: October 10, 1946.

/s/ WAYNE M. COLLINS,
Attorney for Applicants and Petitioners.

POINTS AND AUTHORITIES IN SUPPORT OF MOTION

1. Rule 12(f) R.C.P. authorizes the striking of redundant, immaterial and impertinent matter from a pleading.
2. Immaterial matter may be stricken.
   17 Hughes Fed. Prac. pg. 469, Sec. 20411, and cases there cited.
3. Redundant matter may be stricken.
   17 Hughes Fed. Prac. pg. 469, Sec. 20411, and cases there cited.
4. Impertinent matter may be stricken.
   17 Hughes Fed. Prac. pg. 470, Sec. 20412, and cases there cited.
5. Evidentiary matter may be stricken.
   17 Hughes Fed. Prac. pg. 471, Sec. 20413, and cases there cited.

Respectfully submitted,
/s/ WAYNE M. COLLINS,
Attorney for Petitioners.

Receipt of copy acknowledged.

[Endorsed]: Filed Oct. 10, 1946.

[Title of District Court and Cause.]

TRAVERSE TO AMEND RETURN TO ORDER TO SHOW CAUSE

Each petitioner in this proceeding, traversing matter contained in the amended return to the order to show cause, denies and alleges as follows:

I.

Traversing assertions contained in paragraph II of said amended return denies that each petitioner and/or any petitioner is an alien and/or a citizen and/or subject of Japan; denies that the Attorney General has made a finding of dangerousness as to each and/or any petitioner, acting within his powers as therein asserted or otherwise.

II.

Traversing matter contained in paragraph III thereof denies that each and/or any of the petitioners is held under order of removal from the United States by Tom C. Clark, Attorney General, and alleges that each petitioner now detained is held under a claim that such detention is pursuant to a purported order of removal from the United States issued by him and *allges* that such order is void and invalid; denies that each and/or any of the said purported orders or removal issued by said Tom C. Clark was issued by him acting lawfully pursuant to the Alien Enemy Act and the Presidential Proclamations and the Regulations of the

Attorney General therein mentioned and alleges that each and all of the said purported orders of removal were issued after hostilities in the recent war had ceased and the war had terminated and long after the commencement of this proceeding and during the pendency of this proceeding.

III.

Traversing matter contained in paragraph IV thereof denies the assertion that the purported renunciation of each and/or any petitioner was in fact approved by the Attorney General, as required by statute and/or regulations; and denies that each of said purported renunciations and/or any of them is valid and/or legally effective.

IV.

Traversing matter contained in paragraph V thereof denies that hearings were given to each and/or any petitioner pursuant to the requirements of the statute and regulations therein referred to and alleges that said hearings, in truth and in fact, were perfunctory, arbitrary and oppressive pseudo-hearings lacking in all the elements of a fair and impartial hearing and of due process of law; and traversing the assertions contained in said paragraph denies each and every, all and singular, generally and specifically, the assertions therein contained.

V.

Traversing matter contained in paragraph VIII thereof denies each and every, all and singular,

generally and specifically, the assertions therein contained; traversing admissions therein contained denies he has been destined for removal to Japan by any valid order or orders of the Attorney General and alleges that after the commencement of this proceeding and during the pendency thereof the Attorney General unlawfully and unconstitutionally destined each for removal to Japan; denies that the therein mentioned admission or surveillance maintained over communications between petitioners and persons confined in the Center was maintained only since the purported entry of purported orders of removal by the Attorney General and alleges that such surveillance was maintained at all times during the imprisonment therein of each and all petitioner and alleges that such surveillance, consisting and still consisting of unlawful censorship, interference with the privileged communications between petitioners and their counsel and the deprivation of their right to counsel, was maintained by the Government over communications between petitioners and their counsel at all times herein from on or about July 1, 1945, to date, and still is maintained by the Government; denies the admission therein contained that each petitioner, following his purported renunciation, was afforded an opportunity to show cause why he should not be deported to Japan, and alleges that each arbitrarily was subjected to a pseudo-hearing on such matter wherein none of them was afforded a fair opportunity to show such cause.

VI.

Traversing matter contained in paragraph XIX thereof denies each and every, all and singular, generally and specifically, the assertions contained therein with the exception of the assertions contained in subsection "Second" of said paragraph XIX which are expressly admitted save that each alleges the hearing therein referred to, in truth and in fact, was not a fair hearing but was a pseudo-hearing and a Star Chamber proceeding as therein admitted; and alleges that a few of the petitioners, by virtue of the duress, menace, fraud, undue influence, coercion, mistakes of fact and of law, and the disabilities under which they labored in their imprisonment, as alleged in the amended petition herein, were incapacitated and prevented from revoking their renunciation applications and purported renunciations prior to the time the war terminated.

Wherefore, each petitioner prays that the writ of habeas corpus be awarded and issue herein commanding the respondents to produce the bodies of petitioners in court there to be discharged from the illegal custody of respondents without hearing being required.

Dated: October 10, 1946.

/s/ WAYNE M. COLLINS,

Attorney for Applicants and Petitioners.

City and County of San Francisco,
State of California—ss.

W. M. Collins, being duly sworn on behalf of the petitioners in the foregoing traverse to amended return to order to show cause, says: that he has read the said traverse and knows the contents thereof and that the same is true except as to the matters therein stated on information or belief and as to those matters that he believes it to be true; that petitioners are absent from the City and County of San Francisco where affiant, their attorney, has his office and are detained outside said City and County by respondents, and therefore, affiant makes this affidavit.

/s/ W. M. COLLINS.

Subscribed and sworn to before me this 10th day of October, 1946.

[Seal] /s/ JANE M. DOUGHERTY,

Notary Public in and for the City and County of San Francisco, State of California.

Receipt of copy acknowledged.

[Endorsed]: Filed Oct. 10, 1946.

[Title of District Court and Cause.]

MOTION FOR SUMMARY JUDGMENT THAT WRIT OF HABEAS CORPUS BE AWARDED AND ISSUE COMMANDING PRODUCTION OF PETITIONERS IN COURT THERE TO BE DISCHARGED FROM CUSTODY WITHOUT HEARING BEING REQUIRED

Each petitioner moves the court for summary judgment that the writ of habeas corpus be awarded him or her and issue herein commanding the respondents to produce him or her in court there to be discharged from the custody of respondents, as prayed in the amended petition for the writ herein, without a hearing on the facts being required.

This motion is made upon the grounds that: (1) the defendants' Answer does not present any material issue of fact for determination; (2) the material issues of fact alleged in the amended complaint are either undenied or admitted in said Answer or are facts the existence and truth of which the Court has or takes judicial cognizance, in consequence of which the defendants are barred from denying the truth of the allegations of fact contained in said amended complaint and (3) the questions of fact must be resolved in favor of petitioners, as a matter of law, entitling each of them to the writ and to a discharge.

This motion is made and based upon the amended petition for the writ and order to show cause is-

sued thereon, the amended return to said order to show cause and amended petition, the traverse thereto, this motion and notice thereof, supporting affidavits to be filed herein, facts of which the Court takes judicial cognizance and stipulations of fact into which the parties will enter on the submission of said motion to this Court for adjudication.

Dated: October 14, 1946.

/s/ WAYNE M. COLLINS,
Attorney for Petitioners.

POINTS AND AUTHORITIES IN SUPPORT OF MOTION

1. A summary judgment is authorized in habeas corpus proceedings under the rule set forth in Walker v. Johnston, 312 U. S. 275, 284, and also by Rule 56(a) R.C.P.

2. There is no genuine issue raised by the Amended Return as to any material fact alleged in the amended petition for the writ and, in consequence, petitioners are entitled to summary judgment in their favor as a matter of law.

Inasmuch as the Amended Return does not controvert any material issue of fact and the evidence, as supplied by stipulations of fact, admissions and facts of which the Court takes judicial cognizance, reveals that the respondents have not and cannot deny the material facts alleged in the amended petition for the writ a summary judgment in favor of the petitioners is authorized by Rule

56(a) and 56(c) R.C.P. and the rule established in Walker v. Johnston, supra, and should be granted petitioners.

Respectfully submitted,
/s/ WAYNE M. COLLINS,
Attorneys for Petitioners.

Receipt of copy acknowledged.

[Endorsed]: Filed Oct. 14, 1946.

[Title of District Court and Cause.]

MOTION FOR JUDGMENT ON THE PLEADINGS THAT WRIT OF HABEAS CORPUS BE AWARDED AND ISSUE COMMANDING PRODUCTION OF PETITIONERS IN COURT THERE TO BE DISCHARGED FROM CUSTODY WITHOUT HEARING BEING REQUIRED

Each petitioner moves the court for judgment on the pleadings herein that the writ of habeas corpus be awarded him or her and issue herein commanding the respondents to produce him or her in court there to be discharged from the custody of respondents as prayed in the amended petition for the writ herein, without a hearing on the facts being required.

This motion is made upon the grounds that: (1) the respondents' Amended Return to the Order to Show Cause and Petition for the Writ does not

present any material issue of fact for determination; (2) the material issues of fact alleged in the amended petition for the writ are either undenied or admitted in said amended return or are facts the existence and truth of which the Court has or takes judicial cognizance, in consequences of which the respondents are barred from denying the truth of the allegations of fact contained in said amended petition and (3) questions only of law are involved and these must be resolved in favor of petitioners, as a matter of law, entitling each of them to the writ and to a discharge.

This motion is made and based upon the amended petition for the writ and order to show cause issued thereon, the amended return to said order to show cause and amended petition, the traverse thereto, this motion and notice thereof, facts of which the Court takes judicial cognizance and stipulations of fact into which the parties will enter on the submission of said motion to this Court for adjudication.

Dated: October 14, 1946.

/s/ WAYNE M. COLLINS,
Attorney for Petitioners.

POINTS AND AUTHORITIES IN SUPPORT OF MOTION

1. A motion for judgment on the pleadings is authorized by Rule 12(c) R.C.P.

2. A motion for judgment on the pleadings lies where the issues presented by the pleadings are solely questions of law.

17 Hughes Federal Prac. pg. 444, Secs. 20351-20355, and cases there cited.

3. Judgment on the pleadings should be granted where the denials are evasive or bad or do not explicitly traverse the material allegations of a pleading or involve mere conclusions of law or are inconsistent with admissions or are vague, indefinite or uncertain.

See rules, 1 Bancroft Plead. & Prac. pages 924, 928, 929, 930 and 936, and cases there cited.

4. The Court is authorized to award the writ and have it issued commanding the production of the bodies of petitioners in court there to be discharged without a hearing being had on the merits inasmuch as the pleadings considered in conjunction with facts of which the Court takes judicial cognizance and stipulations of fact entered into between the parties leave only matters of law to be determined by the court. This rule was established in Walker v. Johnston, 312 U. S. 275, 284, in the following language:

"Since the allegations of the petition are often inconclusive, the practice has grown up of issuing an order to show cause, which the respondent may answer. By this procedure the facts on which the

opposing parties rely may be exhibited, and the court may find that no issue of fact is involved. In this way useless grants of the writ with consequent production of the prisoner and of witnesses may be avoided where such undisputed facts and from uncontrovertible facts such as those recited in a court record, it appears, as matter of law, no cause for granting the writ exists. On the other hand, on the facts admitted, it may appear that, as matter of law, the prisoner is entitled to the writ and to a discharge. This practice has long been followed by this court and by the lower courts."

5. A mere renunciation of nationality, if constitutional or valid, does not convert a resident citizen into an alien enemy. At most it deprives him of political privileges. It leaves his residence undisturbed and leaves him a native of this country. As such he is not subject to detention or removal under the provisions of the Alien Enemy Act, Title 50 USCA, sec. 21.

6. The Alien Enemy Act expired when hostilities ceased on August 10, 1945.

7. The facts of the birth, domicile, residence and presence in the United States of each petitioner are alleged in paragraph II of the amended petition for the writ and those facts are expressly admitted in paragraph II of the respondents' amended return thereto. As a matter of law, therefore, each petitioner is entitled to a judgment on the pleadings awarding the writ and commanding his production in court there to be discharged from the illegal

custody of the respondents without a formal hearing on the facts being required, there being only questions of law to be decided and these must, by virtue of said facts, be resolved in favor of petitioners.

Respectfully submitted,
/s/ WAYNE M. COLLINS,
Attorney for Petitioners.

Receipt of copy acknowledged.

[Endorsed]: Filed Oct. 14, 1946.

[Title of District Court and Cause.]

NOTICE OF HEARING OF MOTIONS

To Respondents and to Hon. Tom C. Clark, Attorney General, and Hon. Frank J. Hennessy, U. S. Attorney, Attorneys for Respondents:

You and each of you will please take notice that on Monday, October 28, 1946, at the hour of 10 o'clock A.M. of said day or so soon thereafter as counsel can be heard, petitioners will move the Court to grant their motions to strike, for judgment on the pleadings and for summary judgment which heretofore were filed herein.

Dated: October 16, 1946.
/s/ WAYNE M. COLLINS,
Attorney for Petitioners.

Receipt of copy acknowledged.

[Endorsed]: Filed Oct. 16, 1946.

[Title of District Court and Cause.]

RESPONDENT'S POINTS AND AUTHORITIES IN OPPOSITION TO COMPAINANTS MOTION FOR SUMMARY JUDGMENT AND CROSS MOTION FOR SUMMARY JUDGMENT

B.

Respondent moves for a Summary Judgment in his favor.

I.

The affidavits hereto attached and the authorities heretofore cited establish that Complainants' renunciations are not vitiated by duress or otherwise.

It Is Therefore respectfully submitted that Complainants' Motion for Summary Judgment must be denied and Respondent's Motion for Summary Judgment be granted.

/s/ FRANK J. HENNESSY,
U. S. Attorney.
Attorney for Respondent
In Habeas Corpus.

[Endorsed]: Filed Nov. 12, 1946.

[See Transcript of Record in No. 12251 for affidavits of following: John L. Burling, page 147; Charles M. Rothstein, page 210; Ollie Collins, page 213; Joseph J. Shevlin, page 216, and Lillian C. Scott, page 219, in support of Motion.]

In the Southern Division of the United States District Court for the Northern District of California

No. 25296-S (Consolidated No. 25294-S)

In the Matter of the Application For A Writ of Habeas Corpus by TADAYASU ABO, et al., etc.,

Petitioners, etc.

No. 25297-S (Consolidated No. 25294-S)

In the Matter of the Application For A Writ of Habeas Corpus by MARY KANAME FURUYA, et al., etc.,

Petitioners, etc.

PETITIONERS' AFFIDAVITS IN SUPPORT OF THEIR MOTIONS FOR SUMMARY JUDGMENT AND FOR JUDGMENT ON THE PLEADINGS AND TO STRIKE RESPONDENTS' PLEADINGS AND IN OPPOSITION TO RESPONDENTS' CROSS MOTION FOR SUMMARY JUDGMENT

Contents

Petitioners incorporate herein as affidavits in support of their motions for summary judgment and for judgment on the pleadings and to strike respondents' pleadings and in opposition to respondents' cross motion for summary judgment the following to wit:

1. The original Application And Petition For A Writ of Habeas Corpus filed herein by the petitioners on November 13, 1945, the same being verified by one of the petitioners for and on behalf of each and

all of them, and being offered herein in lieu of filing separate affidavits of merit by each individual petitioner.

2. The Supplement and Amendment to Petition For Writ of Habeas Corpus filed herein March 4, 1946, verified for and on behalf of each petitioner herein, the same being offered herein in lieu of filing separate affidavits of merit by each individual petitioner.

3. The Amended Petition For Writ of Habeas Corpus filed herein August 15, 1946, the same being verified by one of the petitioners for and on behalf of each and all of them, and being offered herein in lieu of filing separate affidavits of merit by each individual petitioner.

4. The Traverse To Amended Return To Order To Show Cause filed herein October 10, 1946, the same being verified for *and behalf* of each petitioner herein and being offered herein in lieu of filing separate affidavits of merit by each individual petitioner.

The attached affidavits of the following persons, none of whom is a petitioner herein and none of whom is a renunciant, but each of whom is competent to be a witness in said proceeding, are offered in support of said motions:

1. Tetsujiro Nakamura.
2. Masami Sasaki.
3. Ernest Besig.
4. Rev. Thomas W. Grubbs.
5. Ann Ray.

[See Transcript of Record in No. 12251,

for Affidavits of Tetsujiro Nakamura, page 225; Masami Sasaki, page 254; Ernest Besig, page 267; Rev. Thomas W. Grubbs, page 290, and Ann Ray, page 301, in support thereof.]

In the Southern Division of the United States District Court for the Northern District of California

No. 25296-S (Consolidated No. 25294-S)

In the Matter of the Application For A Writ of Habeas Corpus by TADAYASU ABO, et al., etc.,

Applicants, etc.

OBJECTIONS AND EXCEPTIONS TO AFFIDAVITS OF MERIT FILED BY RESPONDENTS AND MOTION TO STRIKE THE SAME

On November 12, 1946, the respondents filed herein the affidavits of John L. Burling, Charles M. Rothstein, Ollie Collins, Joseph J. Shevlin, Lillian C. Scott and Thomas M. Cooley II, including Exhibit A attached to the latter, said affidavits purporting to be affidavits of merit in opposition to petitioners' Motion For Summary Judgment and petitioners' Motion For Judgment On The Pleadings filed herein on October 14, 1946, and petitioners' Motion To Strike filed herein on October 10, 1946, and also purporting to be affidavits in support of respondents' cross-motion for summary judgment; and on December 5, 1946, respondents filed

herein in opposition to petitioners' said motions for summary judgment, for judgment on the pleadings and to strike and in support of respondents' cross motion for summary judgment the affidavit of Thomas M. Cooley II to which is attached Exhibits A, B and C and miscellaneous memoranda:

The petitioners and each of them hereby objects and excepts to the introduction in evidence herein of each phrase, clause, sentence and paragraph of each of respondents' said affidavits of merits, including the exhibits attached thereto, and to the whole of each of said affidavits and exhibits and objects and excepts to any consideration whatever being given thereto by the court on the pending motions and moves to strike the same for each and all of the following reasons and upon each and all of the following grounds, to-wit:

(Specific Objections)

The same is and are:

1. Opinions and conclusions of the affiant;
2. Hearsay;
3. A self-serving declaration;
4. Not part of the res gestae;
5. Not in issue herein;
6. Has no bearing on any issue herein;
7. Too remote to have any bearing on any issue herein;
8. Not the best evidence;
9. Is secondary evidence for the introduction of which no foundation has been laid;

10. Assumes something not in evidence;
11. Not binding on any petitioner herein;
12. Negative pregnant;
13. In conflict with admitted facts;
14. In conflict with facts of public notoriety of the truth of which the court has and takes judicial cognizance;
15. In conflict with the contents of pertinent public records; written instruments and official documents;
16. Attempts to alter or vary the terms of pertinent written instruments, public writing and official communications;
17. Not assertable by affiant who is estopped to assert the same because it is in conflict with facts admitted by the pleadings and with facts of public notoriety, and contrary to pertinent public writings and records and official communications and is an attempt to alter or vary the terms of those writings, records and communications by parole evidence and such are not impeachable by affiant;
18. Not matter observed or heard by affiant and not matter within his personal knowledge;
19. Sham;
20. Evasive;
21. Conjectural;
22. Vague;
23. Indefinite;
24. Uncertain;
25. Ambiguous;
26. Irrelevant;

27. Redundant;

28. Immaterial;

29. Affiant is not qualified to testify as an expert witness on the matter therein contained or to offer an affidavit herein on said matter;

30. No foundation has been laid for affiant to testify as an expert witness on the matter contained in his affidavit;

(General Objection)

And that the same is incompetent, irrelevant and immaterial;

(Special Objections To Special Exhibits)

In addition thereto each petitioner objects and excepts to the introduction in evidence herein and moves to strike each and every word, phrase, clause, sentence, paragraph and page of Exhibit A attached to the affidavit of Thomas M. Cooley II filed herein on November 12, 1946, purporting to be a memorandum of the Japanese Nationality Law as translated by one, Kenzo Takayanagai, and Exhibit B attached thereto and purporting to be a translation of sections of the Nippon Horei Zensho and the Kenko Horei Shuran, and also each and every word, phrase, clause, sentence, paragraph and page of Exhibit A attached to the affidavit of Thomas M. Cooley II filed herein on December 5, 1946, and purporting to be the affidavit of one, Thomas L. Blakemore, and Exhibit B attached thereto and purporting to be a memorandum prepared by said Thomas L. Blakemore, and Exhibit C attached thereto and purporting to be a deposition of said

Thomas L. Blakemore taken in a proceeding in the District Court of the United States for the Southern District of California, Northern Division, in a matter entitled "In the Matter of the Petition of Fumiko Tamura for a Writ of Habeas Corpus," No. 376-Civil therein, and miscellaneous photostat copies of a printed publication in the Japanese language attached thereto and Exhibit D attached thereto, and the whole of each of said affidavits and exhibits on each and all of the aforesaid reasons and grounds and upon the following additional and special grounds, to-wit:

The same is and are:

a. Opinion and conclusion of such affiant;
b. Hearsay of such affiant;
c. Sham;
d. Evasive;
e. Conjectural;
f. Vague;
g. Indefinite;
h. Uncertain;
i. Ambiguous;
j. Incompetent;
k. Irrelevant;
l. Immaterial;
m. Self-serving;
n. Unintelligible;
o. No foundation has been laid for the introduction of the same into evidence;
p. Said such affiant is not qualified as an expert

either in ability or proficiency to translate from the Japanese language into English;

q. Said such affiant is not qualified as an expert to testify as to the law or any law of Japan and in particular to the nationality laws of Japan, past or present;

r. Said document and the declarations and purported translations from Japanese to English therein are self-serving;

s. The Japanese law, including the Japanese nationality laws, are not in issue herein and have no application to any issue herein;

t. The law of Japan has no extraterritorial effect and cannot in anywise affect any citizen of the United States or any person residing within the United States;

u. The nationality law of Japan has no extraterritorial jurisdiction or effect over any citizen of the United States or resident of the United States;

v. The nationality law of Japan has no application whatever to any citizen of the United States or to any resident of the United States;

w. The said exhibits pertaining to purported laws of Japan are barred by the provisions of Title 8 USCA, sec. 800, and are inadmissible in evidence;

x. The said exhibits pertaining to purported laws of Japan are inconsistent with the grant of citizenship by the 14th Amendment and are contrary to the due process clause of the 5th Amendment and to the sovereignty of the United States and are barred from being introduced into evidence by reason thereof.

(General Objection)

And the same is and are incompetent, irrelevant and immaterial.

The above and foregoing special and general objections to the introduction of said affidavits and their contents in evidence on the pending motions herein and motions to strike the same are hereby submitted.

/s/ WAYNE M. COLLINS,
Attorney for Petitioners.

Receipt of copy acknowledged.

[Endorsed]: Filed Dec. 18, 1946.

[See Transcript of Record in No. 12251, page 324, for Affidavit of Rosalie Hankey.]

[Title of District Court and Cause.]

OBJECTION AND EXCEPTIONS TO EVIDENCE, MOTION TO STRIKE SAME, AND MOTION TO SUPPRESS EVIDENCE ILLEGALLY OBTAINED

I.

The petitioners, and each of them, hereby object and except to the introduction in evidence herein of the affidavit of Thomas M. Cooley, II, dated Jan. 9, 1947, and annexed to the supplemental brief of respondents filed herein on Jan. 27, 1947, and to the affidavit of Rosalie Hankey dated Jan. 8, 1947, and filed herein on Jan. 23, 1947, to each and every part thereof, and object and except to any consideration and weight whatever being thereto by the

court on the pending motions of petitioners for summary judgment, for judgment on the pleadings and to strike, and move to strike the same for each and all of the following reasons and upon each and all of the following grounds, to-wit:

The same does not constitute the best evidence but is secondary evidence for which no foundation whatever has been laid; the same constitutes self-serving declarations; the same is composed of opinions and conclusions of the affiant and is hearsay; the same is vague, indefinite and uncertain; the same has no bearing on any issue herein; the same is an attempt to alter or vary the terms of written instruments by parole evidence; the same is in conflict with admitted facts and with facts which the respondents are estopped to deny and with facts of which the court takes judicial cognizance; the same relates to matters neither seen nor heard by nor within the personal knowledge of affiant; the same has no bearing upon any material issue involved herein; the same is not binding upon the petitioners or any of them; the same is sham; the same is vague, indefinite, uncertain and ambiguous; and the same is incompetent, irrelevant and immaterial;

II.

And petitioners and each of them object, except to and move to strike the affidavit of Thomas M. Cooley, II, dated January 6, 1947, filed herein on Jan. 9, 1947, and copy thereof annexed to the sup-

plemental brief for respondents containing a letter signed by O. P. Echols with an attached letter signed by J. M. Ebbitt, for each and all of the reasons and upon each and all of the grounds specified in paragraph No. I hereinabove and also upon the further ground that no opportunity, privilege or right of subjecting said J. M. Ebbitt, the signer of said attached letter dated 25 November 1946 addressed to the Adjutant General, to cross-examination on the matter therein contained exists or can be had by virtue of the fact that he is outside the jurisdiction of this court and country and is in Japan, to-wit conquered territory now under the dominion and control of the Allied Powers and General Douglas MacArthur and, therefore, cannot be subpoened or produced by petitioners for cross-examination on his qualifications as an expert in the Japanese language or as an expert on Japanese law or the purported statements of law contained therein; and upon the further grounds that the law of Japan has no extraterritorial effect and cannot affect any citizen of the United States or any resident of the United States; that said affidavit and its contents are barred by the provisions of Title 8 USCA, sec. 800, and are inconsistent with the grant of citizenship by the 14th Amendment and hence inadmissible in evidence.

III.

(Motion To Suppress)

And petitioners and each of them move the court to suppress and to strike the affidavit of Thomas M. Cooley, II, mentioned in paragraph I hereinabove upon the additional ground that the same purports to be a summary of purported statements made by certain petitioners and other persons which said statements were exacted and obtained from them illegally and unlawfully through the instrumentality of duress, coercion, undue influence and fraud exerted upon them and the duress in which they, at the time thereof, were held by the respondents and agents of the government and sundry pressure groups of persons operating in the concentration camps where they were falsely and illegally imprisoned by the government and its agents, all in violation of the provisions against illegal search and seizure guaranteed by the 4th Amendment, the due process clause of the 5th Amendment and the provision of the 5th Amendment against compelling any petitioner to a witness against himself.

Attention is directed to the fact that at the time said purported statements are purported to have been made each petitioner was a citizen of the United States who had been falsely arrested and then and there was illegally held in a concentration camp, subject to the duress complained of in the amended petition herein, for an unspecified crime without any charge or charges having been filed against him and without any hearing having been accorded him as provided for by the 6th Amend-

ment and the due process clause of the 5th and said statements so exacted from petitioners were not voluntary but were coerced and the said statements were and are false and inadmissible by reason thereof.

The above and foregoing objections and exceptions to the introduction of said affidavits and their contents in evidence on the pending motions herein and motion to strike and to suppress are herewith submitted.

Respectfully submitted,

/s/ WAYNE M. COLLINS,

Attorney for Petitioners.

Receipt of copy acknowledged.

[Endorsed]: Filed Jan. 29, 1947.

[See Transcript of Record in No. 12251, page 403, for Affidavit of Thomas M. Cooley II and exhibits.]

In the United States District Court, for the Northern District of California, Southern Division

No. 25296-G (Consolidated No. 25294)

In the Matter of the Application for A Writ of Habeas Corpus by TADAYASU ABO, et al., etc.,

Petitioners, etc.

No. 25297-G (Consolidated No. 25294)

In the Matter of the Application for A Writ of Habeas Corpus by Mary Kaname Furya, et al., etc.,

Petitioners, etc.

ORDER GRANTING APPLICATIONS FOR WRIT OF HABEAS CORPUS

Applicants, all of whom are native born residents of the United States of Japanese ancestry, in the above two applications for writ of habeas corpus, assert that they are unlawfully held in custody by officers of the Department of Justice of the United States for removal and deportation to Japan.

By return filed to the applications, Irving F. Wixon, District Director of the Immigration and Naturalization Service of the Department of Justice of the United States for the Northern District of California, admits that the applicants are in custody for the purpose of removal and deportation to Japan as alien enemies of the United States, pursuant to the authority of the Alien Enemy Act of 1798, (50 USC 21-23) and Presidential Proclamations and Regulations of the Attorney-General issued thereunder.

Contemporaneously with the filing of the applications for the writ of habeas corpus, applicants filed actions in equity in this court, wherein they sought cancellation of alleged renunciations of American citizenship made by them, while in custody, pursuant to 8 USCA Sec. 801(i), upon the ground, inter alia, that such renunciations of citizenship were made under duress and hence are void. It is not alleged anywhere in the habeas corpus proceedings that applicants expatriated themselves in any other manner or under any other provision of law than Sec. 801(i).

Motions of respondent to strike and dismiss in

the equity and habeas corpus cases were argued before Judge St. Sure and, in July 1946, granted. Thereafter, further pleadings and motions were filed in all the cases, including motions for summary judgment by both applicants and respondent. On November 18, 1946, the several motions were submitted to Judge St. Sure for consideration and decision upon affidavits and briefs to be filed. Final brief of applicants was filed February 11, 1947. While these proceedings were pending before Judge St. Sure, he became ill and disabled from performing his duties. Thereafter and on February 20, 1947, with the consent of all parties and the judges of this court, the motions under submission to Judge St. Sure were ordered transferred and submitted to me for consideration, because of Judge St. Sure's continued illness. I have had them under study since submission, during such periods of time as, due to the pressure of continuous trial work, I have been able to give them attention.

The applications for the writ and the equity cases involve the determination of important issues of law which are of first impression.

The applications for the writ of habeas corpus bespeak priority of attention and I am ready to decide them, but will defer filing a written opinion setting forth my reasons for decision.

For reasons which will hereafter be given upon the decision of the equity cases, I am of the opinion that the detained applicants are not alien enemies within the provisions of the Alien Enemy Act of 1798 and hence may not be detained for removal

or deportation from the United States, pursuant to said Act.

Certain contentions of applicants as to the invalidity of the alleged renunciations of citizenship in the equity cases are also urged in support of the applications in the habeas corpus proceedings. It is not necessary to now determine these contentions because I would rule that applicants are not alien enemies whether the alleged renunciations are valid or invalid.

It is asserted in the return of Director Wixon that many of the applicants were and have been disloyal to the United States. But this is not a ground for deportation under the Alien Enemy Act of 1798, except as to persons who are alien enemies under its provisions.*

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*The purpose of § 801(i) was not to provide the basis for deportation of applicants, but "for the purpose of devising a system of controlling the disloyal" . . . , the government, at the time, having no Constitutional means, absent martial law, of so doing as to American Citizens. (Affidavit of John L. Burling of the Alien Enemy Control Unit of the War Division of the Department of Justice, page 10, attached to motion for Summary Judgment.)

The applications for the writ of habeas corpus of all the applicants named are therefore granted.

Dated: June 30, 1947.

/s/ LOUIS E. GOODMAN,
U. S. District Judge.

[Endorsed]: Filed June 30, 1947.

[Title of District Court and Cause.]

RESPONDENTS' MOTION TO VACATE ORDER GRANTING APPLICATIONS FOR WRIT OF HABEAS CORPUS, FOR RECONSIDERATION OF RESPONDENTS' CROSS MOTION FOR SUMMARY JUDGMENT, AND FOR ORDER GRANTING SAME; and MEMORANDUM IN SUPPORT THEREOF; and NOTICE OF MOTION

The respondents move the Court as follows:

1. To vacate its order granting application for writ of habeas corpus entered herein on June 30, 1947.

2. To reconsider the respondents' cross motion for summary judgment.

3. To grant the respondents' cross motion for summary judgment and to enter judgment dismissing the petition.

In support of this motion respondents urge that the Court erred in its order entered herein on June 30, 1947 in holding that the detained applicants are not alien enemies within the provisions of the Alien Enemy Act of 1798, as more fully explained in their memorandum in support hereof.

TOM C. CLARK,
Attorney General.

By /s/ HERBERT A. BERGSON,
Acting Assistant Attorney General.

FRANK J. HENNESSY,
United States Attorney.

ROBERT B. McMILLAN,
Assistant U. S. Attorney,
Attorneys for
Respondents.

Of counsel:

/s/ ENOCH E. ELLISON,
Attorney, Department of
Justice.

NOTICE OF MOTION

To the above named Petitioners and to their attorney, Wayne M. Collins, Esq., 1721 Mills Tower, San Francisco, California:

Please Take Notice that the undersigned will bring the above motion on for hearing before the above entitled Court, at Room 258, United States Courthouse and Post Office Building, Seventh and Mission Streets, San Francisco, California, on the 14th day of July, 1947, at 10:00 o'clock in the forenoon of that day, or as soon thereafter as counsel can be heard.

Said motion will be made on the grounds and for the reasons stated in said motion, and will be based on said order of the Court of June 30, 1947, on all

the pleadings and files in the above proceedings, and on said motion and this notice.

Dated: July 7, 1947.

TOM C. CLARK,
Attorney General.

By HERBERT A. BERGSON,
Acting Assistant Attorney General.

FRANK J. HENNESSY,
United States Attorney.

All by /s/ ROBERT B. McMILLAN,
Assistant U. S. Attorney.
Attorneys for Respondents.

Of counsel:

ENOCH E. ELLISON,
Attorney, Department of Justice.

Receipt of copy acknowledged.

[Endorsed]: Filed July 8, 1947.

In the Southern Division of the United States District Court for the Northern District of California

No. 25296-G Cons. No. 25294-G

In the Matter of the Application For A Writ of Habeas Corpus by TADAYASU ABO, et al., etc.,

Applicants, etc.

OPPOSITION TO RESPONDENT'S MOTION TO VACATE ORDER GRANTING APPLICATIONS FOR WRIT OF HABEAS CORPUS, FOR RECONSIDERATION OF CROSS-MOTION FOR SUMMARY JUDGMENT AND FOR ORDER GRANTING SAME

Petitioners oppose respondent's motion to vacate the order granting the applications for the writ of habeas corpus, for reconsideration of respondent's cross-motion for summary judgment and order granting the same and dismissing the petition.

In opposition to respondent's said motion the petitioners assert that this Court properly decided the case and did not err in granting said applications for the writ and pray that respondent's motion be denied.

Dated: July 11, 1947.

/s/ WAYNE M. COLLINS,
Attorney for Petitioners.

[Endorsed]: Filed July 11, 1947.

[Title of District Court and Cause.]

NOTICE OF DENIAL OF MOTION

To the Respondents and Counsel for Respondents:

You and each of you will please take notice that on Monday, August 4, 1947, respondents' motion to vacate order granting applications for writ of habeas corpus, for reconsideration of respondents' cross motion for summary judgment, and for order

granting same was denied by a minute order of the above-entitled Court made and entered on August 4, 1947.

Dated: August 7, 1947.

/s/ WAYNE M. COLLINS,
Attorney for Petitioners.

Receipt of copy acknowledged.

[Endorsed]: Filed Aug. 7, 1947.

In the United States District Court for the Northern District of California, Southern Division

No. 25296-G (Consolidated No. 25294)

In the Matter of the Application for A Writ of Habeas Corpus by Tadayasu Abo, et al., etc.
Petitioners, etc.

No. 25297-G (Consolidated No. 25294)

In the Matter of the Application for A Writ of Habeas Corpus by Mary Kaname Furya, et al., etc.,
Petitioners, etc.

MEMORANDUM DECISION DENYING RESPONDENTS' MOTIONS TO VACATE ORDER GRANTING APPLICATIONS FOR WRIT OF HABEAS CORPUS

In the order of court granting the petitions for writ of habeas corpus, I stated that the detained applicants are not alien enemies within the provisions of the Alien Enemy Act of 1798 and hence could not be detained for deportation. I further

stated that the reasons for decision would be given in an opinion to be filed at the time of decision of the equity suits brought by petitioners. Respondents, in their motions to reconsider and vacate the order granting the writ, have indicated that they have been handicapped in presenting the motions because of lack of knowledge of the nature of the court's reasons for its conclusion. I will therefore briefly indicate the basis of the decision.

Admittedly all of petitioners were, at the time of their alleged renunciations of citizenship, native born citizens of the United States residing therein. The basis of their detention by respondents is that prior to and at the time of the alleged renunciations, petitioners were also citizens of Japan and that therefore they automatically became citizens of Japan when the alleged renunciations were effected. The court unequivocally rejects the concept of dual citizenship asserted by respondents. The theory that a native born resident American can at the selfsame time be an alien and a citizen of a foreign state, is, in my opinion, judicially wholly unsound. An American citizen as such, owes his entire allegiance to the United States and the United States is entitled to claim from him an indivisable loyalty. A naturalized citizen, at the time of naturalization renounces all allegiance to any foreign government and swears undivided fealty to the United States. No less is the allegiance of a native born citizen, for the Constitution makes no distinction between naturalized and native born

citizens. It is Constitutionally impossible for a resident citizen of the United States to have at the same time any allegiance to any foreign government.*

Possession of Japanese citizenship, in Japan, by a native born resident American citizen of Japanese ancestry, does not, upon renunciation of American citizenship in the United States, convert that person into an alien until he has voluntarily departed from this country. An alien is defined to be "one born out of the United States, and who has not been naturalized under their constitution and laws." Low Wah Suey v. Backus, 225 U.S. 460, 473; 2 Kent 50; 1 Bouvier Law Dictionary 3d Rev. 172. It is true that the term "alien" has been extended to apply to a native born United States citizen who has lost his American citizenship by removal to and acquisition of the citizenship of a foreign country. Reynolds v. Haskins, 8 F. 2d 473.

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*The dual citizenship concept in the field of international law (with which we are not here concerned) has to do with situations in which two different sovereigns may lawfully, within their respective territorial confines, claim citizenship of the same person, and he of them, and the international incidents and implications which result. Talbot v. Jansen, 3 Dall. 131, 164; Perkins v. Elg. 307 U.S. 325. But that such person may occupy a dual citizenship status, in the sense that he possesses simultaneously the citizenship of the sovereign state in which he is a domiciled native and that of a foreign sovereign as well, with all the attendant rights and obligations of both, is a principle to which no government would willingly subscribe.

It is also true that the Alien Enemy Act broadly applies to "natives, citizens, denizens, or subjects" of a hostile nation or government. "Nevertheless, absent any express declaration of Congressional intent, there is no justification for *hold-that* under the Alien Enemy Act, a native born resident American citizen, who renounces his American citizenship pursuant to Sec. 801(i), may be deported, at least as long as he continues to reside here.

All that the expatriation statute (including § 801(i)) purports to effect is termination of American citizenship. It in no way fixes or determines any particular alien nationality for the expatriate.

By its terms, the Alien Enemy Act applies to subjects of hostile countries who are found within the United States and are "not actually naturalized." (50 USC § 21) Petitioners' status is obviously not within the scope of Section 21.

Assuming the petitioners' renunciations to be valid, they would cease to be American Citizens, but they would not thereby acquire an alien citizenship, which they could not lawfully theretofore have possessed.

The motions to vacate and reconsider are denied, and I will therefore sign the orders for the issuance of the writ.

Dated: August 11, 1947.

/s/ LOUIS E. GOODMAN,
U. S. District Judge.

[Endorsed]: Filed Aug. 11, 1947.

[Title of District Court and Cause.]

RESPONDENTS' SECOND MOTION TO VACATE ORDER GRANTING APPLICATIONS FOR WRIT OF HABEAS CORPUS, FOR RECONSIDERATION OF RESPONDENTS' CROSS MOTION FOR SUMMARY JUDGMENT, AND FOR ORDER GRANTING SAME

The Respondents move the Court as follows:

1. To vacate its order granting application for writ of habeas corpus entered herein on June 30, 1947.

2. To reconsider Respondents' cross motion for summary judgment, and

3. To grant Respondents' cross motion for summary judgment and to enter judgment dismissing the petitions.

In support of this motion, Respondents urge that the Court erred in its order entered herein on June 30, 1947, in holding that the detained applicants are not alien enemies within the provisions of the Alien Enemy Act of 1798. Since the Court has not yet announced its reasons for so holding this motion assumes arguendo that the Court may have concluded for some reason that legal effect can not properly be given the Japanese citizenship of the petitioners. Submitted herewith in support of this motion is an affidavit of Charles M. Rothstein, Acting Director, Alien Enemy Control Unit, Department of Justice, showing that many of the petition-

ers voluntarily proclaimed their Japanese citizenship at the time of their renunciation hearings in response to the question of why they wished to renounce their United States citizenship.

TOM C. CLARK,
Attorney General.
By PEYTON FORD,
Assistant Attorney General.
FRANK J. HENNESSY,
United States Attorney.

ROBERT B. McMILLAN,
Assistant U. S. Attorney,
Attorneys for
Respondents.

Of Counsel:

/s/ ENOCH E. ELLISON,
Attorney, Department of
Justice.

Receipt of copy acknowledged.
[Endorsed]: Filed Aug. 8, 1947.

In the Southern Division of the United States District Court for the Northern District of California

No. 25296-G

In the Matter of the Application For A Writ of Habeas Corpus by TADAYASU ABO, et al., etc.,

Petitioners, etc.

OPPOSITION TO RESPONDENTS' SECOND MOTION TO VACATE ORDER GRANTING APPLICATIONS FOR WRIT OF HABEAS CORPUS

Petitioners oppose Respondents' Second Motion To Vacate The Order Granting Applications For Writ of Habeas Corpus, For Reconsideration Of Respondents' Cross Motion For Summary Judgment And Order Granting Same.

In opposition to respondents' said second motion the petitioners assert that this Court properly denied respondents said like first motion and properly decided the case and did not err in granting the applications for the writ and therefore pray that respondents' second motion be denied.

Dated: August 11, 1947.

/s/ WAYNE M. COLLINS,
Attorney for Petitioners.

POINTS AND AUTHORITIES IN SUPPORT OF PETITIONERS' OPPOSITION TO RESPONDENTS' SECOND MOTION

In opposition to respondents' second motion the petitioners incorporate herein their Points and Authorities heretofore filed in support of their opposition to respondents' first motion to vacate order granting applications for writ of habeas

corpus and those heretofore filed in support of their motion for judgment on the pleadings and for summary judgment.

It is respectfully submitted that the respondents' second motion should be denied.

/s/ WAYNE M. COLLINS,
Attorney for Petitioners.

Receipt of copy acknowledged.

[Endorsed]: Filed Aug. 11, 1947.

[Title of District Court and Cause.]

NOTICE OF ORDER DENYING MOTION

To Respondents and Their Attorneys:

You and each of you will please take notice that on the 11th Day of August, 1947, your Second Motion To Vacate Order Granting Applications For Writ of Habeas Corpus, For Reconsideration Of Respondents' Cross Motion For Summary Judgment And Order Granting Same heretofore submitted to the above-entitled Court for decision was denied by an order of the above-entitled Court duly made and entered herein.

Dated: 11th Day of August, 1947.

/s/ WAYNE M. COLLINS,
Attorney for Petitioners.

Receipt of copy acknowledged.

[Endorsed]: Filed Aug. 11, 1947.

[Title of District Court and Cause.]

NOTICE OF ORDER DENYING RESPONDENTS' MOTIONS AND GRANTING PETITIONERS' MOTIONS AND RELEASING PETITIONERS FROM RESPONDENTS' CUSTODY AND AWARDING WRIT OF HABEAS CORPUS AND ORDERING ITS ISSUANCE

To Respondents in the Above-Entitled Proceeding and to Their Attorneys:

You and each of you will please take notice that by an order of the above-entitled Court duly made and entered herein on the 11th Day of August, 1947, respondents' motions for summary judgment to strike and to dismiss the amended petition were denied and petitioners' motions for summary judgment and for judgment on the pleadings were granted and the petitioners were awarded and granted their application and petition for writs of habeas corpus commanding respondents to liberate the detained petitioners from detention and to restore them to their liberty.

Dated: August 11, 1947.

/s/ WAYNE M. COLLINS,
Attorney for Petitioners.

Receipt of copy acknowledged.

[Endorsed]: Filed Aug. 11, 1947.

[Title of District Court and Cause.]

ADMISSION OF SERVICE OF COPY OF ORDER

Receipt of a copy of the order of the above-entitled Court of August 11, 1947, denying respondents' motions and granting petitioners' motions and releasing petitioners from respondents' custody and awarding writ of habeas corpus and ordering its issuance is hereby admitted this 11th Day of August, 1947.

TOM C. CLARK,
Attorney General.

PEYTON FORD,
Asst. Atty. Gen.,

FRANK J. HENNESSY,
U. S. Attorney,

By /s/ ROBERT B. McMILLAN,
Asst. U. S. Atty.,
Attorneys for
Respondents.

[Endorsed]: Filed Aug. 11, 1947.

[Title of District Court and Cause.]

ORDER DENYING RESPONDENT'S MOTIONS AND GRANTING PETITIONERS' MOTIONS AND RELEASING PETITIONERS FROM RESPONDENT'S CUSTODY AND AWARDING WRIT OF HABEAS CORPUS AND ORDERING ITS ISSUANCE

The motions of the respective parties herein heretofore having been supmitted to this Court for decision and having been duly considered by this Court,

It Is Ordered that the respondent's motion for summary judgment, to strike and to dismiss the amended petition be and they hereby are denied;

It Is Ordered that the petitioners' motions for summary judgment and for judgment on the pleadings be and they hereby are granted;

It Is Ordered that each of the petitioners now detained by the respondent be released from respondent's custody and be restored to his or her liberty and the respondent is ordered forthwith to release the said petitioners and each of them from his custody and control and to restore them to their liberty, and

It Is Ordered that the application for the writ of habeas corpus sought herein by each of the petitioners now detained by or under the authority of or in the custody of the respondent be granted and it is ordered that a writ of habeas corpus issue out of and under the seal of this Court directed to the respondent Irving F. Wixon, as the District Director of the Northern District of California for the Immigration and Naturalization Service of the Department of Justice of the United States, commanding him forthwith to release each of the petitioners now detained by him from his custody and to restore them to their liberty and that, if he fails so to do, commanding him to have the body of each of the petitioners now detained by him or under his

authority or in his control before the above-entitled Court, in the courtroom of said Court, 2nd Floor, Post Office Building, 7th and Mission Streets, San Francisco, California, on Monday, the 8th day of September, 1947, at the hour of 10 o'clock A.M. of said day to do and receive what then and there shall be considered concerning the said petitioners and each of them, and that he have then and there the said writ.

Dated: August 11th, 1947.

/s/ LOUIS E. GOODMAN,
U. S. District Judge.

[Endorsed]: Filed Aug. 11, 1947.

In the Southern Division of the United States District Court for the Northern District of California

No. 25296-G Cons. No. 25294-G

In the Matter of the Application For A Writ of Habeas Corpus by TADAYASU ABO, et al.,
Applicants,

And

TADAYASU ABO, et al., etc.,
Petitioners,

vs.

IRVING F. WIXON, District Director, etc.,
Respondent.

WRIT OF HABEAS CORPUS

The President of the United States of America to Irving F. Wixon, as the District Director of the Northern District of California for the Immigration and Naturalization Service of the Department of Justice of the United States, Respondent, Greeting:

You are hereby commanded to release forthwith from your custody and restore to his or her liberty each of the petitioners in the above-entitled proceeding now detained by you or under your authority or in your custody and, in the event that you fail so to do you are commanded to have the body of each of the said petitioners now detained by you or under your authority or in your custody before the above-entitled Court, in the courtroom of said Court, 2nd Floor, Post Office Building, 7th and Mission Streets, San Francisco, California, on Monday, the 8th day of September, 1947, at the hour of 10 o'clock A.M. of said day, then and there to do, submit to and receive whatsoever the said Court shall then and there consider in that behalf; and have you then and there this Writ.

Witness the Honorable United States District Court For The Northern District of California, this 11th day of August, 1947.

C. W. CALBREATH,
Clerk.

[Seal] By /s/ L. C. JACOBSEN,
Deputy Clerk.

Return on Service of Writ

United States of America,
Northern District of California—ss:

I hereby certify and return that I served the annexed Writ of Habeas Corpus on the thereinnamed Irving F. Wixon, District Director, Immigration by handing to and leaving a true and correct copy thereof with Irving F. Wixon personally at San Francisco, Calif. in said District on the 11th day of August, A. D. 1947.

GEORGE VICE,
U. S. Marshal.
By /s/ DIAMOND T. McCARTHY,
Deputy.

MD # 26777

[Endorsed]: Filed Aug. 14, 1947.

[Title of District Court and Cause.]

ORDER AND CONSENT
(Order)

Whereas the Court is informed that the respondent may take an appeal from its decision discharging from the custody of the respondent those among the petitioners who, as of the date of this order, are restrained of their liberty by him and whereas the production of said petitioners in person before this Court on September 8, 1947, in compliance with the writ of habeas corpus heretofore issued herein not only would invoke a hardship upon them but would cause a needless expense to be borne by the United States and, therefore, is deemed by the parties hereto to be unnecessary and

Whereas said petitioners move the Court to be released to the custody of Wayne M. Collins, Esq., their counsel, pending the taking of any such appeal by the respondent and thereafter during the pendency of any such appeal, conditioned that if such an appeal be taken that they and each of them will appear to answer, comply with and abide by the final decision in such appellate proceedings and whereas the respondent herein and the Attorney General of the United States consent to their release to the custody of Wayne M. Collins, their counsel, upon such conditions, as appears from the executed consent form below,

It Is Ordered that petitioners' said motion be granted.

Dated: September 8th, 1947.

/s/ LOUIS E. GOODMAN,
U. S. District Judge.

(Consent)

Upon the signing and filing of the above order of Court the respondent and the Attorney General of the United States, without prejudice to respondent's right of appeal in the above cause, consent to release to the custody of Wayne M. Collins, Esq., petitioners' counsel, upon the conditions specified in the above form of order, those among the petitioners who now are restrained of their liberty by the respondent or said Attorney General and, in addition thereto, consent to parole to the custody of said Wayne M. Collins, Esq., those plaintiffs in actions Nos. 25294 and 25295, pending in the above-

entitled Court and consolidated with habeas corpus proceedings Nos. 25296 and 25297 likewise pending therein, who, as of the date hereof, likewise are detained by them but who are not parties to either of said habeas corpus proceedings, and also to parole to said Wayne M. Collins those certain other United States born persons of Japanese ancestry now detained by said Attorney General, or under his order, who are neither parties to said action No. 25294 or 25295 nor to said proceeding No. 25296 or 25297 but who similarly are detained at the Alien Internment Camp at Crystal City, Texas, or at Seabrook Farms, Inc., Bridgeton, New Jersey, and further

Said Attorney General consents to provide the transportation costs and expenses of those among the above-mentioned persons who now are detained at said Alien Internment Camp at Crystal City, Texas, from their said place of detention to their homes in San Francisco or Los Angeles, Calif.

Dated: September 6th, 1947.

TOM C. CLARK,
Attorney General.

FRANK J. HENNESSY,
U. S. Attorney.

By /s/ ROBERT B. McMILLAN,
Assistant U. S. Attorney.
Attorneys for Respondent.

[Endorsed]: Filed Sept. 8, 1947.

[Title of District Court and Cause.]

NOTICE OF APPEAL

Notice Is Hereby Given that the above-named respondent hereby appeals to the Circuit Court of Appeals for the Ninth Circuit from the order made and entered in the above-entitled matter on August 11, 1947, granting a writ of habeas corpus for the release of each of the above-named petitioners; and from the orders made and entered therein on said day denying respondent's motions for summary judgment, to strike and dismiss the amended petition, and granting petitioners' motions for summary judgment and for judgment on the pleadings.

Dated: San Francisco, California, September 8, 1947.

TOM C. CLARK,
Attorney General.

PEYTON FORD,
Assistant Attorney General.

/s/ FRANK J. HENNESSY,
United States Attorney.

/s/ ROBERT B. McMILLAN,
Assistant U. S. Attorney.
Attorneys for said
Respondent.

Receipt of copy acknowledged.
[Endorsed]: Filed Sept. 8, 1947.

[Title of District Court and Cause.]

DESIGNATION OF CONTENTS OF RECORD ON APPEAL

To the Clerk of the above entitled Court, and to Wayne M. Collins, Esq., attorney for applicants:

The above named respondent, by his attorneys herein, hereby designates for inclusion in the transcript of record upon appeal the complete record and all the proceedings in the action.

Dated: October 3, 1947.

TOM C. CLARK,
Attorney General.

PEYTON FORD,
Assistant Attorney General.

/s/ FRANK J. HENNESSY,
U. S. Attorney.

/s/ ROBERT B. McMILLAN,
Assistant U. S. Attorney.
Attorneys for said Respondent.

Receipt of copy acknowledged.

[Endorsed]: Filed Oct. 3, 1947.

[Title of District Court and Cause.]

STIPULATION AND ORDER THEREON EXTENDING TIME FOR FILING RECORD ON APPEAL AND DOCKETING CAUSE IN THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT (Rule 73(g).)

It Is Hereby Stipulated that the time of the above named respondent for filing record on appeal and for docketing the above entitled action on appeal in the United States Circuit Court of Appeals for the Ninth Circuit, in pursuance of notice of appeal heretofore filed by said respondent, be extended to and including the 6th day of December, 1947.

Dated: October 3, 1947.

/s/ WAYNE M. COLLINS,
Attorney for Applicants.

TOM C. CLARK,
Attorney General.

PEYTON FORD,
Assistant Attorney General.

/s/ FRANK J. HENNESSY,
U. S. Attorney.

/s/ ROBERT B. McMILLAN,
Assistant U. S. Attorney.
Attorneys for said
Respondent.

ORDER EXTENDING TIME FOR FILING RECORD ON APPEAL AND DOCKETING CAUSE IN THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT

On reading the foregoing stipulation, and on application of Tom C. Clark, Attorney General, Peyton Ford, Assistant Attorney General, Frank J. Hennessy, United States Attorney, and Robert B. McMillan, Assistant United States Attorney, attorneys for the above named respondent, and good cause appearing therefor;

Now, Therefore, It Is Ordered that the time of respondent for filing of record on appeal and for docketing the above entitled action on appeal in the United States Circuit Court of Appeals for the Ninth Circuit, in pursuance of notice of appeal heretofore filed by said respondents on September 8, 1947, be, and the same is hereby extended to and including the 6th day of December, 1947.

Dated: October 3, 1947.

/s/ LOUIS GOODMAN,
U. S. District Judge.

Receipt of copy acknowledged.

[Endorsed]: Filed Oct. 3, 1947.

[Title of District Court and Cause.]

PETITIONERS' DESIGNATION OF ADDITIONAL CONTENTS T OBE INCLUDED IN RECORD ON APPEAL

To the Clerk of the above entitled Court, to Respondents, and to Tom C. Clark, Attorney General, and Frank J. Hennessy, U. S. Attorney, Attorneys for Respondents (Appellants):

The applicants and petitioners, appellees herein, designate as additional portions of the record, proceedings and evidence for inclusion in the record on appeal herein the following, to-wit: the affidavits, including the exhibits incorporated therein and annexed thereto, filed in support of their motion for summary judgment and for judgment on the pleadings, and also the original complaint, the supplement and amendment to complaint and the amended complaint which were specifically incorporated and offered as affidavits of merit on said motions.

Dated: October 10, 1947.

/s/ WAYNE M. COLLINS,
Attorney for Petitioners.

Receipt of copy acknowledged.

[Endorsed]: Filed Oct. 10, 1947.

In the United States Court of Appeals
For the Ninth Circuit

No. 25296-G (Consolidated No. 25294)

In the Matter of the Application for A Writ of Habeas Corpus by TADAYASU ABO, et al., etc.,

Petitioners, etc.

No. 25297-G (Consolidated No. 25294)

In the Matter of the Application for A Writ of Habeas Corpus by MARY KANAME FURYA, et al., etc.,

Petitioners, etc.

STIPULATION AND ORDER THEREON EXTENDING TIME TO FILE AND DOCKET RECORD ON APPEAL

It Is Stipulated between the parties hereto that the time within which appellants (respondents below) may file and docket the record on appeal herein may be and hereby is extended to and including the 1st day of March, 1949.

Dated: December 28, 1948.

TOM C. CLARK,
Attorney General.

FRANK J. HENNESSY,
U. S. Attorney.

By .....,
ROBERT B. McMILLAN,
Assistant U. S. Attorney.
Attorneys for Appellants.
(Petitioners below)

.....,
WAYNE M. COLLINS,
Attorney for Appellees.
(Petitioners below)

Time extended as stipulated.
WM. DENMAN,
Chief Judge.

[Endorsed]: Filed Dec. 28, 1948.
PAUL P. O'BRIEN,
Clerk:

A True Copy.
Attest: Dec. 28, 1948.
PAUL P. O'BRIEN,
Clerk.

[Seal] By /s/ FRANK SCHMID,
Deputy Clerk.

[Endorsed]: Filed Dec. 28, 1948, U.S.D.C.

CERTIFICATE OF CLERK TO RECORD ON APPEAL

I, C. W. Calbreath, Clerk of the District Court of the United States for the Northern District of California, do hereby certify that the foregoing documents, listed below, are the originals filed in this Court, in the above-entitled, and that they constitute the Record on Appeal herein as designated by the parties:

Petition for Writ of Habeas Corpus.

Order to Show Cause.

Order Appointing Next of Friend and Guardian Ad Litem for Minor Applicants and Petitioners.

Stipulation.

Order.

Order to Show Cause.

Withdrawal and Dismissal.

Withdrawal and Dismissal.

Stipulation to Inclusion of Additional Applicants and Petitioners as Parties to Suit.

Order Joining Parties Applicant and Petitioners.

Stipulation and Order.

Stipulation and Order.

Stipulation and Order.

Stipulation and Order.

Supplement and Amendment to Petition for Writ of Habeas Corpus.

Stipulation and Order to Inclusion of Additional Parties as Petitioners in Suit.

Stipulation and Order Re Production of Petitioners.

Stipulation and Order Extending Time.

Stipulation and Order to Inclusion of Additional Parties as Petitioners In Suit.

Stipulation and Order to Inclusion of Additional Parties in Suit.

Stipulation and Order Extending Time, Etc.

Motion to Strike.

Points and Authorities in Support of Motion to Strike.

Stipulation and Order Extending Time.

Petitioners' Points and Authorities in Opposition to Respondent's Motion to Strike.

Stipulation and Order Extending Time.

Stipulation and Order Extending Time.

Stipulation and Order Extending Time.

Memorandum Supplemental to Points and Authorities in Support of Motion to Strike.

Order.

Stipulation and Order Extending Time.

Stipulation and Order.

Amended Petition for Writ or Habeas Corpus.

Stipulation and Order.

Motion to Strike.

Return.

Stipulation to Rejoinder of a Party Respondent.

Order Joining a Party Respondent.

Voluntary Dismissal of a Party Petitioner Without Prejudice.

Amended Return.

Motion to Strike.

Traverse to Amended Return to Order to Show Cause.

Morition for Summary Judgment That Writ of Habeas Corpus Be Awarded and Issue Commanding Production of Petitioners in Court There to be Discharged From Custody Without Hearing Being Required.

Motion For Judgment on the Pleadings That Writ of Habeas Corpus Be Awarded and Issue Commanding Production of Petitioner in Court There To Be Discharged From Custody Without Hearing Being Required.

Notice of Hearing of Motions.

Respondent's Points and Authorities in Opposition to Petitioners' Motion to Strike.

Respondent's Points and Authorities in Opposition to Petitioners' Motion for Judgment on the Pleadings.

Respondent's Points and Authorities in Opposition To Complainants' Motion for Summary Judgment and Cross Motion for Summary Judgment.

Brief for Respondent.

Brief for Petitioners.

Petitioners' Affidavits in Support of Their Motions For Summary Judgment and For Judgment on the Pleadings and to Strike Respondents' Pleadings and In Opposition to Respondents' Cross Motion for Summary Judgment.

Objections and Exceptions to Affidavits of Merit

Filed by Respondents and Motion To Strike The Same.

Affidavit of Thomas M. Cooley, II, dated January 6, 1947.

Affidavit of Rosalie Hankey.

Objection and Exceptions to Evidence, Motion to Strike Same, and Motion to Suppress Evidence Illegally Obtained.

Plaintiff's Supplemental Memorandum.

Affidavit of Thomas M. Cooley II.

Order Granting Applications for Writ of Habeas Corpus.

Order Granting Stay of Execution of Writ of Habeas Corpus.

Order Granting Stay of Execution of Writ of Habeas Corpus.

Respondents' Motion to Vacate Order Granting Applications for Writ of Habeas Corpus, for Reconsideration of Respondents' Cross Motion for Summary Judgment, and for Order Granting Same; and Memorandum in Support Thereof; and Notice of Motion.

Opposition to Respondent's Motion to Vacate Order Granting Applications for Writ of Habeas Corpus, for Reconsideration of Cross-Motion for Summary Judgment and for Order Granting Same.

Order Granting Stay of Execution of Writ of Habeas Corpus.

Notice of Denial of Motion.

Re Orders of the Attorney General Releasing Certain Petitioners.

Memorandum Decision Denying Respondents' Motions to Vacate Order Granting Applications for Writ of Habeas Corpus.

Respondents' Memorandum in Support of Section Motion to Vacate Order Granting Applications for Writ of Habeas Corpus, for Reconsideration of Respondents' Motion for Summary Judgment and for Granting Same.

Respondents' Section Motion to Vacate Order Granting Applications for Writ of Habeas Corpus, for Reconsideration of Respondents' Cross Motion for Summary Judgment, and for Order Granting Same.

Affidavit of Charles M. Rothstein.

Opposition to Respondents' Second Motion to Vacate Order Granting Applications for Writ of Habeas Corpus.

Notice of Order Denying Motion.

Notice of Order Denying Respondents' Motions and Granting Petitioners' Motions and Releasing Petitioners from Respondents' Custody and Awarding Writ of Habeas Corpus and Ordering Its Issuance.

Admission of Service of Copy of Order.

Order Denying Respondent's Motions and Granting Petitioners' Motions and Releasing Petitioners from Respondent's Custody and Awarding Writ of Habeas Corpus and Ordering Its Issuance.

Writ of Habeas Corpus.

Order and Consent.

Notice of Appeal.

Designation of Contents of Record on Appeal.

Stipulation and Order Thereon Extending Time for Filing Record on Appeal and Docketing Cause in the United States Circuit Court of Appeals for the Ninth Circuit (Rule 73(g).)

Petitioners' Designation of Additional Contents to Be Included in Record on Appeal.

Stipulation and Order Thereon Extending Time to File and Docket Record on Appeal.

Reporter's Transcript for July 5, 1946.

In Witness Whereof, I have hereunto set my hand and affixed the seal of said District Court this 28th day of February, A.D. 1949.

C. W. CALBREATH,
Clerk.

[Seal] By /s/ M. E. VAN BUREN,
Deputy Clerk.

[Endorsed]: No. 12195. United States Court of Appeals for the Ninth Circuit. Irving F. Wixon, District Director, Immigration and Naturalization Service, Appellant, vs. Tadayasu Abo, et al., etc., Appellees. Transcript of Record. Appeal from the United States District Court for the Northern District of California, Southern Division.

Filed February 28, 1949.

/s/ PAUL P. O'BRIEN,
Clerk of the United States Court of Appeals for the Ninth Circuit.

In the United States Court of Appeals
for the Ninth Circuit
No. 12195

IRVING F. WIXON, District Director, Immigration and Naturalization Service,

Appellant,

vs.

TADAYASU ABO, et al., etc.,

Appellees.

STATEMENT OF POINTS AND DESIGNATION OF RECORD

1. Concise Statement of the Points on Which Appellant Intends to Rely (Rule 19, Subdivision 6).

2. Designation of Record (Rule 19, Subdivision 6).

A concise statement of the points on which appellant intends to rely on this appeal and review is the following:

1. The District Court erred in holding that appellees, because they were born in the United States, could not, upon renunciation of United States citizenship, become alien enemies within the provisions of the Alien Enemy Act of 1798 (Act of July 6, 1798, 1 Stat. 577, 50 U.S.C. Sec. 21, et seq.), and hence, that they can not lawfully be detained for removal or deportation from the United States pursuant to said Act.

2. The District Court erred in holding that a native born resident American citizen of Japanese ancestry can not, at the same time, be a citizen of

Japan, and hence, upon renunciation of American citizenship in the United States such person does not become an alien until he has voluntarily departed from the United States.

3. The District Court erred in holding that no native born resident American citizen who renounced his American citizenship pursuant to Section 801 (Act of July 1, 1944, 54 Stat. 1168; 8 U.S.C. 801) may be removed from the United States pursuant to said Alien Enemy Act of 1798 as long as he continues to reside in the United States.

Appellant designates all of the record, excepting all Briefs and Memoranda of Points and Authorities, as material to the consideration of this appeal.

Dated: March 1, 1949.

TOM CLARK,
Attorney General.
H. G. MORISON,
Assistant Attorney General
/s/ FRANK J. HENNESSY,
U. S. Attorney.
ENOCH E. ELLISON,
Special Assistant to the
Attorney General.
PAUL J. GRUMBLY,
Attorney,
Department of Justice,
Attorneys for Appellant.

Affidavit of service by mail attached.

[Endorsed]: Filed Mar. 1, 1949.

[Title of Court of Appeals and Cause.]

STIPULATION TO DESIGNATION OF CONTENTS OF RECORD ON APPEAL TO BE PRINTED

Filing Date

Names and Addresses of Attorneys.

11-13-45 Petition for Writ of Habeas Corpus, with its Exhibits, but omit listing of all of petitioners' names and substitute the following therefor,

"TADAYASU ABO, et al., ..., adults, individually, and as constituting a class, and as representatives of a class,

and

GENSHYO AMBO, et al., ..., minors, individually, and as constituting a class, and as representatives of a class, by HARRY UCHIDA, as the next of friend and as guardian ad litem of them and each of them, Applicants and Petitioners."

11-13-45 Order Appointing Next of Friend and Guardian Ad Litem for Minor Applicants and Petitioners.

11-23-45 Stipulation.

11-23-45 Order.

11-13-45 Order to Show Cause.

12-31-45 Stipulation and Order.

1- 2-46 Stipulation and Order.

Filing Date	
3- 4-46	Supplement and Amendment to Petition for Writ of Habeas Corpus.
3-14-46	Stipulation and Order re Production of Petitioners.
7-15-46	Motion to Strike (omitting Points and Authorities).
7-11-46	Order.
8-15-46	Amended Petition for Writ of Habeas Corpus.
9-19-46	Motion to Strike (omitting Points and Authorities).
9-23-46	Return.
10- 4-46	Amended Return.
10-10-46	Motion to Strike.
10-10-46	Traverse to Amended Return to Order to Show Cause.
10-14-46	Motion for Summary Judgment that Writ of Habeas Corpus be Awarded and Issue Commanding Production of Petitioners in Court there to be Discharged from Custody Without Hearing Being Required.
10-14-46	Motion for Judgment on the Pleadings that Writ of Habeas Corpus be Awarded and Issue Commanding Production of Petitioners in Court There to be Discharged from Custody Without Hearing Being Required (omitting Points and Authorities).
10-16-46	Notice of Hearing of Motions.
11-12-46	Respondents' Points and Authorities in

Filing Date

Opposition to Complainants' Motion for Summary Judgment and Cross Motion for Summary Judgment, omitting therefrom paragraph A and its subsections I, II, III, IV and V, but print only Paragraph B, subsection I and prayer thereof which is the cross motion, and then print the following notation:

[See Transcript of Record in No. 12251 for Affidavits of following: John L. Burling, page 147; Charles M. Rothstein, page 210; Ollie Collins, page 213; Joseph J. Shevlin, page 216, and Lillian C. Scott, page 219, in support of Motion.]

12-11-46 Petitioners' Affidavits in Support of Their Motion for Summary Judgment and for Judgment on the Pleadings and to Strike Respondents' Pleadings and in Opposition to Respondents' Cross Motion for Summary Judgment, and then print the following notation:

[See Transcript of Record in No. 12251 for Affidavits of following: Tetsujiro Nakamura, page 225; Masami Sasaki, page 254; Ernest Besig, page 267; Rev. Thomas W. Grubbs, page 290; and Ann Ray, page 301, in support thereof.]

12-18-46 Objections and Exceptions to Affidavits of Merits Filed by Respondents and Motion to Strike the Same.

1-23-47 Print notation: [See Transcript of Rec-

Filing Date	
	ord in No. 12251, page 324, for Affidavit of Rosalie Hankey.]
1-29-47	Objections and Exceptions to Evidence, Motion to Strike Same, and Motions to Suppress Evidence Illegally Obtained.
3-24-47	Print notation: [See Transcript of Record in No. 12251, page 403, for Affidavit of Thomas M. Cooley II and exhibits.]
6-30-47	Order Granting Applications for Writ of Habeas Corpus (please place pages thereof in proper numerical sequence).
7- 8-47	Respondents' Motion to Vacate Order Granting Applications for Writ of Habeas Corpus, for Reconsideration of Respondents' Cross Motion for Summary Judgment, and for Order Granting Same. (Omit Respondents' Memorandum in Support of Motion.)
7-11-47	Opposition to Respondents' Motion to Vacate Order Granting Applications for Writ of Habeas Corpus, for Reconsideration of Cross Motion for Summary Judgment and for Order Granting Same. (Omit Points and Authorities.)
8- 7-47	Notice of Denial of Motion.
8-11-47	Memorandum Decision Denying Respondents' Motion to Vacate Order Granting Applications for Writ of Habeas Corpus.
8- 8-47	Respondents' Second Motion to Vacate Order Granting Applications for Writ of Habeas Corpus, for Reconsideration of

Filing Date	
	Respondents' Cross Motion for Summary Judgment, and for Order Granting Same.
8-11-47	Opposition to Respondents' Second Motion to Vacate Order Granting Applications for Writ of Habeas Corpus.
8-11-47	Notice of Order Denying Motion.
8-11-47	Notice of Order Denying Respondents' Motions and Granting Petitioners' Motions and Releasing Petitioners from Respondents' Custody and Awarding Writ of Habeas Corpus and Ordering Its Issuance.
8-11-47	Admission of Service of Copy of Order.
8-11-47	Order Denying Respondents' Motions and Granting Petitioners' Motions and Releasing Petitioners from Respondents' Custody and Awarding Writ of Habeas Corpus and Ordering Its Issuance.
8-14-47	Writ of Habeas Corpus and Return on Service of Writ.
9- 8-47	Order and Consent.
9- 8-47	Notice of Appeal.
10- 3-47	Designation of Contents of Record on Appeal.
10- 3-47	Stipulation and Order Extending Time for Filing Record on Appeal and Docketing Cause in the United States Circuit Court of Appeals for the Ninth Circuit.

Filing Date

10-10-47 Petitioners' Designation of Additional Contents to be Included in Record on Appeal.

12-28-48 Stipulation and Order Extending Time to File and Docket Record on Appeal.
Certificate of Clerk to Record on Appeal.
This Stipulation.

Dated: June 27th, 1949.

H. G. MORISON,
Assistant Attorney General.

FRANK J. HENNESSY,
U. S. Attorney.

ENOCH E. ELLISON,
Special Assistant to the
Attorney General.

PAUL J. GRUMBLY,
Attorney,
Department of Justice,

By /s FRANK J. HENNESSY,
U. S. Attorney.
Attorneys for Appellants.

/s/ WAYNE M. COLLINS,
Attorney for Appellees.

[Endorsed]: Filed June 27, 1949.

[Title of Court of Appeals and Cause.]

STIPULATION AND ORDER

It is stipulated between the parties hereto, by their respective counsel, that whereas the whole of the record on appeal herein is identical with that in appeal proceeding No. 12196, now pending in the above-entitled Court and entitled "Tom Clark, as Attorney General of the United States, et al., Appellants, vs. Mary Kaname Furuya, et al., etc., Appellees," with the exception of the names of the party appellee therein and the parties appellee herein and the parties appellee herein, and

Whereas all the issues of fact and of law which may be determined on the appeal herein are identical with those involved in said appeal proceeding No. 12196, save and except as such determination of such issues of fact and of law may or shall affect the individual appellee in said appeal proceeding No. 12196,

It Is Stipulated that the Transcript of Record in said appeal proceeding No. 12196 need not be printed on said appeal, unless the same hereafter may be required for the convenience of the Court where pending, but remain in typewritten form as filed and docketed in the above-entitled Court and be held in abeyance pending a final judicial determination of this appeal and, in the event that the final decision of court on this appeal proves to be dispositive of the issues of fact and of law involved

in said appeal proceeding No. 12196 that the final judicial decision herein shall also be the final judicial decision therein on said issues of law and of fact and that such decision thereon may be entered therein.

Dated: June 27th, 1949.

H. G. MORISON,
Assistant Attorney General.

FRANK J. HENNESSY,
U. S. Attorney.

ENOCH E. ELLISON,
Special Assistant to the
Attorney General.

PAUL J. GRUMBLY,
Attorney,
Department of Justice,

By /s/ R. B. McMILLAN,
Assistant U. S. Attorney,
Attorneys for Appellants.

/s/ WAYNE M. COLLINS,
Attorney for Appellees.

So Ordered: July 1, 1949.

/s/ WILLIAM HEALY,
U. S. Circuit Judge.

/s/ WM. E. ORR.

[Endorsed]: Filed July 18, 1949.